
IN THE UNITED STATES DISTRICT COURT
CENTRAL DIVISION, DISTRICT OF UTAH

**RONALD T. GRANGE, JR., individually, :
and in his capacity as the Personal
Representative of the ESTATE OF :
RONALD T. GRANGE, SR., and APRIL
GRANGE HOLMES, the heirs at law, :
Plaintiffs, :**

Civil No. 1:07-cv-00107

RULING & ORDER

JUDGE TENA CAMPBELL

vs.

**MYLAN LABORATORIES, INC., MYLAN
TECHNOLOGIES, INC., and ENTITY
DOES I THROUGH VI,**

**MAGISTRATE JUDGE BROOKE C.
WELLS**

Defendants.

Currently pending before this Court, is defendants', Mylan Inc., Mylan Technologies Inc., and Mylan Pharmaceuticals Inc. (collectively referred to as "Mylan"), motion to compel.¹ For the reasons now set forth herein and pursuant to Federal Rule of Civil Procedure 37, defendants' motion to compel is granted and plaintiffs are hereby ordered to produce the box of Mylan's Fentanyl Transdermal System ("MFTS") patches currently at issue.

¹Document No. 82.

I. Background

In their complaint, plaintiffs allege that Ronald T. Grange Sr. (“decedent”) died as a result of fentanyl toxicity caused by his use of a fentanyl transdermal patch produced by Mylan.² On April 3, 2009, through its First Request For Production of Documents, defendants sought information regarding any of the decedent’s remaining fentanyl patch boxes still in the plaintiffs’ possession.³ Specifically, defendants requested production of the “box received by the decedent with the script for fentanyl.”⁴ In response, plaintiffs indicated that they were in possession of two empty fentanyl patch boxes but did not have any other Mylan containers or packaging.⁵

Thereafter, on January 7, 2010, the personal representative of decedent’s estate, Ronald Grange Jr. (“Mr. Grange”), was deposed. During his deposition, Mr. Grange referenced several cardboard boxes that he had removed from the decedent’s apartment, and indicated that inside one of the larger boxes he observed a smaller box of Fentanyl patches.⁶ Mr. Grange further stated that if you “shake” the fentanyl box “there’s something in there.”⁷ He indicated that the larger box containing the smaller

²Complaint; Document No. 2.

³Defendants’ First Request For Production of Documents, Document No. 88-2.

⁴Defendants’ First Request For Production of Documents, Request 9; Document No. 88-2.

⁵Plaintiffs’ Responses And Objections To Defendants’ First Request For Production, Document 86-3.

⁶Deposition of Ronald T. Grange, January 7, 2010, pg. 90-91; Docket No. 83-2.

Q: But obviously when you were going through those two boxes at some point after you got them home you observed a box of Fentanyl inside one of the larger boxes.

A: Correct.

⁷ Deposition of Ronald T. Grange, January 7, 2010, pg. 91; Document No. 83-2.

Fentanyl box had been sealed with duct tape and was still in his possession.⁸ Based upon Mr. Grange's statements, defendants' counsel made a request for production of the Fentanyl box and alerted plaintiff of the potential for spoliation if the seal was disturbed prior to production.⁹ Thereafter, on March 15, 2010¹⁰ and March 30, 2010¹¹ defendants again provided plaintiffs' counsel with written requests to produce the Fentanyl box to which Mr. Grange had referred in his deposition.

Based upon plaintiffs' failure to produce the box, defendants then filed their pending motion to compel requesting immediate production of the box referenced in Mr. Grange's deposition allegedly containing the Mylan patches at issue in this litigation.¹²

In response, plaintiffs submitted the April 12, 2010, Declaration of Ronald T. Grange in which Mr. Grange states that on the day of his January 7, 2010, deposition he was "very nervous" and "could not concentrate."¹³ As a result, Mr. Grange declares that his "testimony was mistaken" and that after his father's death he actually threw

⁸Deposition of Ronald T. Grange, January 7, 2010, pg. 94-95; Docket No. 83-2.

Q: Is the larger box that the Fentanyl box is in, is it sealed in some fashion?

A: Yes

Q: How is it sealed.

A: Tape. Duct tape.

Deposition of Ronald T. Grange, January 7, 2010, pg. 65; Docket No. 83-2.

Q: I would request that the larger box that the Fentanyl box or boxes may be in not be disturbed because I'm going to make a request that the larger box be brought to me here at a later date in Salt Lake City were it can be opened by the parties together, okay?

A: Yes.

¹⁰Document No. 83-3.

¹¹First Supplemental Request For Production; Document No. 83-4.

¹²Document No. 82.

¹³Declaration of Ronald Grange Jr. ¶ 3; Document No. 86-2.

away the leftover fentanyl patches and sent the empty patch boxes to his attorneys.¹⁴

Plaintiffs further contend they have no documents or tangible items responsive the defendants' discovery request and accordingly the motion should be denied.¹⁵

III. Analysis

Mylan has made repeated formal and informal requests for production of any and all boxes containing fentanyl patches in plaintiffs' possession. To date, no boxes have been produced despite sworn statements as to their existence. Of additional concern is the conflicting testimony regarding the alleged contents of the box and whether or not the box is still in Mr. Grange's possession or has in fact been turned over to his attorneys. Such conflict does not defeat the motion to compel, but instead only underscores the need for production of the box so that the contents thereof may be inspected.¹⁶

Accordingly, the Court hereby grants defendants' motion to compel. Mylan's request for production of the box is consistent with plaintiffs' general duty to disclose information that is relevant to this litigation and the claims and defenses presented.¹⁷ Furthermore, given the conflicting information provided in the document request, deposition and declaration the Court finds it is appropriate for plaintiffs to produce any boxes in their possession that may be responsive to defendants' requests.

¹⁴Declaration of Ronald Grange Jr. ¶4; Document No. 86-2.

¹⁵Additionally, plaintiffs argue that Mylan's motion is procedurally improper and premature. The Court, however, finds such procedural objections unpersuasive in that plaintiffs responded to Mylan's First Supplemental Document Request on April 6, 2010, prior to the time they filed an opposition to Mylan's motion yet still failed to produce the box requested.

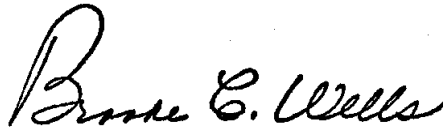
¹⁶Burns v. Board of County Commissioners of Jackson County, 330 F.3d 1275, 1282 (10th Cir.).

¹⁷Fed. R. Civ. P. 26.

Defendants' counsel to submit, for the Court's review, an affidavit of reasonable attorney fees incurred in bringing their motion to compel.

DATED this 17th day of May, 2010.

BY THE COURT:

A handwritten signature in black ink, reading "Brooke C. Wells", written over a horizontal line.

Brooke C. Wells
United States Magistrate Judge

UNITED STATES DISTRICT COURT

Northern Division

District of

Utah

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

V.

Pablo Nieto-Cruz

Case Number: DUTX1:08CR000142

USM Number: 16048-081

Spencer Rice, FPD

Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to count(s) Counts 1 & 2 of indictment.

☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.

☐ was found guilty on count(s) _____
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
21 USA Sec. 841(a)(1)	Possession of Methamphetamine With Intent to Distribute		1
8 USC Sec. 1326	Reentry of a Previously Removed Alien		2

The defendant is sentenced as provided in pages 2 through 10 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) _____

☐ Count(s) _____ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

5/12/2010

Date of Imposition of Judgment

Tena Campbell

Signature of Judge

Tena Campbell

Name of Judge

U.S. District Judge

Title of Judge

5-14-2010

Date

DEFENDANT: Pablo Nieto-Cruz
CASE NUMBER: DUTX1:08CR000142

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

43 months

☒ The court makes the following recommendations to the Bureau of Prisons:

The court recommends defendant be placed in a facility in the state of Arizona.

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at _____ ☐ a.m. ☐ p.m. on _____

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on _____

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Pablo Nieto-Cruz
CASE NUMBER: DUTX1:08CR000142

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

60 months.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☒ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: Pablo Nieto-Cruz
CASE NUMBER: DUTX1:08CR000142

SPECIAL CONDITIONS OF SUPERVISION

1. The defendant shall not illegally reenter the United States.

CRIMINAL MONETARY PENALTIES

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: Pablo Nieto-Cruz
CASE NUMBER: DUTX1:08CR000142

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☒ Lump sum payment of \$ 200.00 due immediately, balance due
- ☐ not later than _____, or
☒ in accordance ☐ C, ☐ D, ☐ E, or ☒ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties:
Special Assessment Fee of \$200 is due immediately.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

Pages 7 - 10

are the

Statement of Reasons,
which will be docketed
separately as a sealed
document

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FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

MAY 17 2010
D. MARK JONES, CLERK
BY _____
DEPUTY CLERK

Attorneys for Receiver

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

SECURITIES AND EXCHANGE COMMISSION, Plaintiff, v. VESCOR CAPITAL CORP., et al., Defendants.	ORDER APPROVING VERIFIED MOTION TO CONTINUE APPOINTMENT OF GIL A. MILLER AND HIS COLLEAGUES NOW DOING BUSINESS AS ROCKY MOUNTAIN ADVISORY Case No. 1:08cv00012 Judge: Dee Benson
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Having reviewed the Verified Motion to Continue Appointment of Gil A. Miller and His Colleagues Now Doing Business as Rocky Mountain Advisory filed by Robert G. Wing, Receiver, and good cause otherwise appearing, it is, hereby,

ORDERED that Gil A. Miller and his colleagues, formerly of PricewaterhouseCoopers, continue their role as accountants to the Receiver through their new company, Rocky Mountain Advisory.

DATED this 17th day of May, 2010.

BY THE COURT:

Dee Benson

DISTRICT COURT JUDGE

UNITED STATES DISTRICT COURT

Northern Division

District of

Utah

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

V.

Pablo Nieto-Cruz

DY:

DEPUTY CLERK

Case Number: DUTX1:09CR000098-001

USM Number: 16048-081

Spencer Rice, Esq.

Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to count(s) 1 of indictment

☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.

☐ was found guilty on count(s) _____
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
18 USC Sec. 111(a)(1)	Assault on a Federal Officer		1

The defendant is sentenced as provided in pages 2 through 9 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) _____

☐ Count(s) _____ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

5/12/2010

Date of Imposition of Judgment

Tena Campbell

Signature of Judge

Tena Campbell

Name of Judge

U.S. District Judge

Title of Judge

5-14-2010

Date

DEFENDANT: Pablo Nieto-Cruz
CASE NUMBER: DUTX1:09CR000098-001

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

8 months (this term to run consecutively with sentence imposed in case #1:08-cr-142DS, District of Utah).

☒ The court makes the following recommendations to the Bureau of Prisons:

The court recommends defendant be placed in a facility in the state of Arizona.

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at _____ ☐ a.m. ☐ p.m. on _____

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on _____

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Pablo Nieto-Cruz
CASE NUMBER: DUTX1:09CR000098-001

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

none

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☐ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☐ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: Pablo Nieto-Cruz

CASE NUMBER: DUTX1:09CR000098-001

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 100.00	\$ 0.00	\$ 0.00

☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
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TOTALS	\$ 0.00	\$ 0.00
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☐ Restitution amount ordered pursuant to plea agreement \$ _____

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: Pablo Nieto-Cruz
CASE NUMBER: DUTX1:09CR000098-001

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☒ Lump sum payment of \$ 100.00 due immediately, balance due
- ☐ not later than _____, or
☒ in accordance ☐ C, ☐ D, ☐ E, or ☒ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties:
Special Assessment Fee of \$100 is due immediately.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

Pages 6 - 9

are the

Statement of Reasons,
which will be docketed
separately as a sealed
document

Prepared and proposed by:

David W. Zimmerman (5567)

Rebecca A. Ryon (11761)

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FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

MAY 17 2010

D. MARK JONES, CLERK
BY _____
DEPUTY CLERK

Attorneys for Plaintiff Ruby Pipeline, LLC

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, NORTHERN DIVISION**

RUBY PIPELINE, L.L.C., a Delaware limited
liability company,

Plaintiff,

vs.

1.648 ACRES OF REAL PROPERTY
IN BOX ELDER COUNTY, UTAH;
4.673 ACRES OF REAL PROPERTY
IN BOX ELDER COUNTY, UTAH;
1.616 ACRES OF REAL PROPERTY
IN BOX ELDER COUNTY, UTAH;
GEORGE J. MANSFELD;
LINDA MANSFELD; PRINCE
ESTALILLA; NISHA ESTALILLA;
HERMOGENES PASTOR;
ZENAIDA PASTOR; and
ADDITIONAL UNKNOWN
INTEREST OWNERS,

Defendants.

**ORDER FOR PRO HAC VICE
ADMISSION OF LAURENCE E.
GARRETT AS COUNSEL FOR
PLAINTIFF RUBY PIPELINE, LLC**

Case No. 1:10-cv-00072

Judge Dee Benson

It appearing to the Court that Petitioner meets the pro hac vice admission requirements of Local Rule 83-1.1(d), the motion for the admission pro hac vice of Laurence E. Garrett as counsel for Plaintiff Ruby Pipeline, LLC in the United States District Court, Northern District of Utah in the subject case is GRANTED.

SO ORDERED.

Dated: this 17th day of May, 2010.

A handwritten signature in black ink that reads "Dee Benson". The signature is written in a cursive, flowing style. The first name "Dee" is written with a large, looped 'D'. The last name "Benson" is written in a similar cursive style. The signature is positioned above a horizontal line.

Honorable Dee Benson
U.S. District Court Judge

United States Probation Office
for the District of Utah

Report on Offender Under Supervision

Name of Offender: **Rodney Weston Smith**

Docket Number: **2:03-CR-00827-001-DB**

Name of Sentencing Judicial Officer: **Honorable Dee Benson**
U.S. District Judge

Date of Original Sentence: **February 23, 2005**

Original Offense: **Possession of a Firearm and Ammunition by a Convicted Felon**

Original Sentence: **60 Months BOP Custody/36 Months Supervised Release**

Date of Violation Sentence: **February 26, 2010**

Violation Sentence: **No BOP custody/continue on Supervised Release**

Type of Supervision: **Supervised Release**

Current Supervision Began: **December 3, 2009**


SUPERVISION SUMMARY

On May 6, 2010, the defendant failed to submit to a random drug test. On May 13, 2010, the defendant reported in person and admitted to United States Probation that relapsed using methamphetamine and marijuana. The defendant reported that he last used these substances on May 11, 2010. As a result of his drug use, the defendant has been referred for a substance abuse evaluation, his drug testing frequency has been increased, and he was warned that any further drug use would result in violation proceedings.

In an attempt to provide the defendant with every opportunity to be successful on supervision, it is respectfully recommended that no further action be taken by the Court.

If the Court desires more information or another course of action, please contact me at 801-535-2748.


I declare under penalty of perjury that the foregoing is true and correct.



Jerry Hawk
U.S. Probation Officer
Date: May 13, 2010

THE COURT:

- ☒ Approves the request noted above
☐ Denies the request noted above
☐ Other



Honorable Dee Benson
U.S. District Judge

Date: 5/14/10

UNITED STATES DISTRICT COURT

District of Utah

UNITED STATES OF AMERICA

v.

JASON SAMUEL ANDERSEN

Judgment in a Criminal Case

(For Revocation of Probation or Supervised Release)

Case No. DUTX205CR000073-005-TS

USM No. 12429-081

Parker Douglas

Defendant's Attorney

THE DEFENDANT:

- ☒ admitted guilt to violation of condition(s) Allegation 4 of the Petition of the term of supervision.
☐ was found in violation of condition(s) _____ after denial of guilt.

The defendant is adjudicated guilty of these violations:

<u>Violation Number</u>	<u>Nature of Violation</u>	<u>Violation Ended</u>
4	Defendant has failed to work regularly at a lawful occupation since 11/12/2009	

The defendant is sentenced as provided in pages 2 through 4 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- ☒ The defendant has not violated condition(s) 1-3 of Petition and is discharged as to such violation(s) condition.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

Last Four Digits of Defendant's Soc. Sec. No.: 1832

Defendant's Year of Birth: 1973

City and State of Defendant's Residence:
South Salt Lake city, UT

05/13/2010

Date of Imposition of Judgment

Signature of Judge

The Honorable Ted Stewart

U. S. District Judge

Name and Title of Judge

05/14/2010

Date

DEFENDANT: JASON SAMUEL ANDERSEN
CASE NUMBER: DUTX205CR000073-005-TS

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of :

13 months

☐ The court makes the following recommendations to the Bureau of Prisons:

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at _____ ☐ a.m. ☐ p.m. on _____ .

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on _____ .

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____ with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: JASON SAMUEL ANDERSEN
CASE NUMBER: DUTX205CR000073-005-TS

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

NONE

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter as determined by the court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☐ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☐ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is be a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: JASON SAMUEL ANDERSEN
CASE NUMBER: DUTX205CR000073-005-TS

ADDITIONAL TERMS FOR CRIMINAL MONETARY PENALTIES

The Restitution imposed joint and several for the original sentence is reinstated.

FILED
U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT

2010 MAY 17 A 10:05

DISTRICT OF UTAH, CENTRAL DIVISION

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

UNITED STATES OF AMERICA,

ORDER

Plaintiff,

Case No. 2:05-cr-661 CW

v.

Judge Clark Waddoups

JEFFERY W. BITTON,

Defendant.

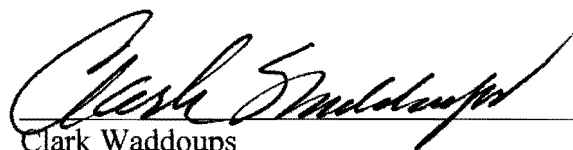
The government and Defendant Jeffery W. Bitton have filed motions pertaining to discovery, Daubert hearings, and motions in limine. Because the defendant has been determined incompetent to stand trial at this time, the court dismisses without prejudice the following motions:

1. Motion for Daubert Hearing (Docket No. 20).
2. Motion in Limine (Docket No. 21).
3. Motion for Release of Brady Materials (Docket No. 22).
4. Motion for Release of Kyles Information and Brady Materials (Docket No. 23).
5. Motion in Limine (Docket No. 173).
6. Motion in Limine and Request for Daubert Hearing (Docket No. 252).

If any of the above motions become relevant in the future, the motion may be re-filed at that time.

SO ORDERED this 14th May, 2010.

BY THE COURT:


Clark Waddoups
United States District Judge

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

**NGOK GLOBAL CONSULTANTS,
INC., a California corporation,**

Plaintiff,

v.

**PARKER INTERNATIONAL, INC., a
Utah corporation,**

Defendant.

**ORDER GRANTING STIPULATED
MOTION FOR ADR**

Case No. 2:05cv372

District Judge Dee Benson

Magistrate Judge Paul M. Warner

This matter was referred to Magistrate Judge Paul M. Warner by District Judge Dee Benson pursuant to 28 U.S.C. § 636(b)(1)(A).¹ Based on the stipulated motion filed by NGOK Global Consultants, Inc. and Parker International, Inc., the above-entitled matter is hereby referred to court-annexed Alternative Dispute Resolution Program for **MEDIATION**. Accordingly, further proceedings in this matter will be governed by the provisions of DUCivR 16-2 and the court's ADR Plan.

IT IS SO REFERRED, this 17th day of May, 2010.

BY THE COURT:



PAUL M. WARNER
United States Magistrate Judge

¹ See docket nos. 32, 38, and 64.

Todd E. Zenger (5238)
Dax D. Anderson (10168)
KIRTON & MCCONKIE
1800 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111
Telephone: (801) 328-3600
Facsimile: (801) 321-4893
Email: tzenger@kmclaw.com
Email: danderson@kmclaw.com

Attorneys for Plaintiff

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

MAY 17 2010

D. MARK JONES, CLERK
BY _____
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

<p>NGOK GLOBAL CONSULTANTS, INC., a California corporation,</p> <p>Plaintiff,</p> <p>vs.</p> <p>PARKER INTERNATIONAL, INC., a Utah corporation,</p> <p>Defendant.</p>	<p>Civil Action No.: 2:05 CV 00372</p> <p>Judge Dee Benson</p> <p>ORDER</p> <p>(JURY TRIAL DEMANDED)</p> <p>Magistrate Judge Paul M. Warner</p>
---	--

NGOK, Global Consultants, Inc., ("NGOK") and Parker International, Inc. ("Parker") appeared for a hearing on Parker's Motion for Summary Judgment (Doc. # 67) on Friday April 2, 2010. NGOK was represented at the hearing by Todd E. Zenger and Dax D. Anderson. Parker was represented by Reid W. Lambert and Anthony M. Grover.

Upon consideration of the evidence, the parties' briefs, and the argument of counsel, and for the reasons set forth in the transcript of the April 2, 2010, hearing on Parker's Motion for Summary Judgment (Doc. # 67), the Court hereby orders as follows:

1. Parker's Motion for Summary Judgment against NGOK (Doc. # 67) is denied.

DATED this 17th day of May, 2010.

By: Dee Benson
Hon. Judge Dee Benson
U.S. District Court Judge for District of Utah

Approved As to Form:

WOODBURY & KESLER

By: s/Anthony M. Grover
Reid W. Lambert
Anthony M. Grover

*(Signed by filing attorney with permission of
Anthony M. Grover via email of 5/14/10.)*

Attorneys for Defendant
PARKER INTERNATIONAL, INC.

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

WILLIAM CHASE WOOD, et al.,
Plaintiffs,

vs.

WORLD WIDE ASSOCIATION OF
SPECIALTY PROGRAMS AND
SCHOOLS, INC., et al.,
Defendants.

ORDER

Case No. 2:06-CV-708 CW

Now before the court is Plaintiffs' motion to extend the deadlines for Plaintiffs to respond to various motions by various Defendants (Dkt. No. 382). That motion is GRANTED in part, as discussed below.

While the court has not yet decided whether to designate the case as complex, if it were to do so, it would likely issue an order establishing briefing deadlines different from those currently in effect. Accordingly, until the court rules upon Plaintiffs' motion to designate the case as complex, the Plaintiffs are not required to file any responsive memoranda to any outstanding motions. When the court issues an order granting or denying the designation motion, it will contemporaneously set new deadlines by which Plaintiffs are required to respond to all outstanding motions. Note, however, that all other deadlines in the federal and local rules of civil procedure must be observed by all parties.

The motion is DENIED in that the court declines to reset the hearing on Plaintiffs'

designation motion from June 23, 2010 to a later date. In conjunction with that hearing, which shall go forward on June 23, 2010, Plaintiffs shall submit to the court a brief detailing what special procedures they believe would help the court to manage this case by June 14, 2010. Possible issues the court anticipates that Plaintiffs might address in this brief include the possibility of holding more than one hearing on the outstanding dispositive motions, depending on the proposed ground for dismissal. Any response or objections to Plaintiffs' brief shall be due by June 21, 2010, though Defendants are not required to respond.

SO ORDERED this 17th day of May, 2010.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Clark Waddoups", written in a cursive style.

Clark Waddoups
United States District Judge

FILED
U.S. DISTRICT COURT

2010 MAY 17 P 2:38

DISTRICT OF UTAH

RECEIVED

MAY 17 2010

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH, CENTRAL DIVISION

OFFICE OF

JUDGE TENA CAMPBELL

CLOSE TO MY HEART, INC., a Utah
corporation, CABIN CREEK, LLC, *dba* CTMH
CO., a Utah limited liability company, and JRL
PUBLICATIONS, LLC, a Utah limited liability
company,

Plaintiffs,

vs.

ENTHUSIAST MEDIA LLC, a Delaware entity,
aka CREATING KEEPSAKES, and *aka*
WWW.CREATINGKEEPSAKES.COM,

Defendants.

Civil No.: 2:07-CV-50 TC

Judge Tena Campbell

**ORDER GRANTING
MOTION TO DISMISS**

By stipulation of the parties, and for good cause shown:

IT IS ORDERED:

The Motion to dismiss is GRANTED. All claims of the parties are dismissed without
prejudice. Each party is to bear to its own fees and costs.

Dated this 17th day of May, 2010.

BY THE COURT

By: _____

Tena Campbell

JUDGE TENA CAMPBELL
UNITED STATES DISTRICT COURT

L. Rich Humpherys, 1582
CHRISTENSEN & JENSEN, P.C.
15 West South Temple, Suite 800
Salt Lake City, Utah 84101
Telephone: (801) 323.5000
Facsimile: (801) 355.3472
Attorneys for Defendants Jacob and Joan Stevens

FILED
U.S. DISTRICT COURT

MAY 14 P 2:59

RECEIVED

MAY 14 2010

OFFICE OF U.S. DISTRICT JUDGE
BRUCE S. JENKINS

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

AMERICAN NATIONAL PROPERTY AND
CASUALTY COMPANY

Plaintiff,

vs.

JACOB STEVENS AND JOAN STEVENS

Defendants.

**ORDER EXTENDING TIME TO FILE
REPLY MEMORANDUM TO
PLAINTIFF'S MEMORANDUM IN
OPPOSITION TO DEFENDANTS'
MOTION FOR SUMMARY
JUDGMENT**

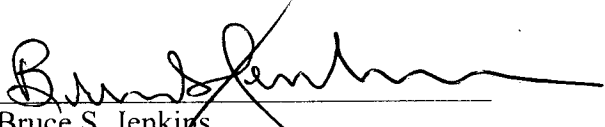
Case No. 2:07cv00430

Judge Bruce S. Jenkins

Pursuant to the Stipulation and Motion of the parties, defendants are granted an extension of time to and including May 21, 2010, to file their reply memorandum to plaintiff's memorandum in opposition to defendants' motion for summary judgment.

DATED this 14 day of May, 2010.

BY THE COURT:


Bruce S. Jenkins
United States District Judge

Aric Cramer (#5460)
CRAMER LATHAM, LLC
150 North 200 East Suite 101
St. George, Utah 84770
Telephone (435) 627-1565
Facsimile (435) 628-9876

Attorney for Defendant

FILED
U.S. DISTRICT COURT
2010 MAY 17 P 2:26
DISTRICT OF UTAH
BY: DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs

TONYA BARNEY,

Defendant.

ORDER CONTINUING SENTENCING

CASE NUMBER 2:08-cr-140

Judge Clark Waddoups

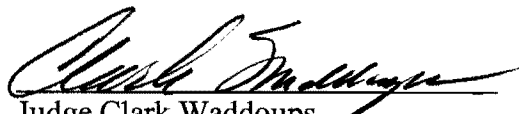
THIS COURT having reviewed the Stipulated Motion to Continue Sentencing and good cause appearing, hereby ORDERS:

That the sentencing scheduled for May 17, 2010 at 3:00 pm is hereby stricken and reset for

6/10/10 at 3:00 pm.

DATED this 12th day of May, 2010.

BY THE COURT:


Judge Clark Waddoups
U.S. District Court Judge

FILED
U.S. DISTRICT COURT
2010 MAY 17 A 11:55

DISTRICT OF UTAH
BY: _____
DEPUTY CLERK

GARY E. DOCTORMAN (0895)
J. MICHAEL BAILEY (4965)
NICOLE PYNE (11135)
SUSAN BAIRD MOTSCHIEDLER (10653)
Parsons Behle & Latimer
Attorneys for Plaintiff
One Utah Center
201 South Main Street, Suite 1800
Salt Lake City, UT 84111
Telephone: (801) 532-1234
Facsimile: (801) 536-6111
gdoctorman@parsonsbehle.com
mbailey@parsonsbehle.com
npyne@parsonsbehle.com
smotschiedler@parsonsbehle.com

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

ACE INVESTORS, LLC,

Plaintiff,

vs.

MARGERY RUBIN, AS TRUSTEE OF THE
RUBIN FAMILY IRREVOCABLE STOCK
TRUST,

Defendant.

**ORDER, FINAL JUDGMENT AND
DISMISSAL OF COUNTERCLAIMS,
THIRD-PARTY CLAIMS, AND CROSS-
CLAIMS**

Case No. 2:08-cv-289 TS

Judge Ted Stewart

MARGERY RUBIN, AS TRUSTEE OF THE
RUBIN FAMILY IRREVOCABLE STOCK
TRUST,

Third-Party Plaintiff,

vs.

CHRISTIAN YOUNG, DEAN ALLARA,
BRANSON HAMILTON, MARIA SONNER,
AND THOMAS SULLIVAN,

Third-Party Defendants.

CHRISTIAN YOUNG, DEAN ALLARA,
AND BRANSON HAMILTON,

Cross-Claim Plaintiffs,

vs.

MARIA SONNER AND THOMAS
SULLIVAN,

Cross-Claim Defendants.

Based on Plaintiff ACE Investors LLC's ("ACE Investors"), Defendant Margery Rubin, as trustee for the Rubin Family Irrevocable Stock Trust's (the "Trust"), and Cross-Claim Plaintiffs Christian Young, Dean Allara, and Branson Hamilton's ("Cross-Claim Plaintiffs") Stipulation to Entry of Judgment and Dismissal of Counterclaims, Third-Party Claims, and Cross-Claims and for good cause appearing,

IT IS HEREBY ORDERED:

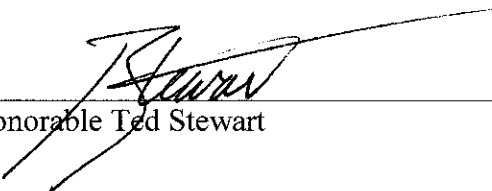
1. Plaintiff's claims described in its Complaint are resolved by a final judgment which is hereby entered in favor of ACE Investors and against the Trust on Plaintiff's Complaint in the principal amount of \$1,174,426.46 as of December 1, 2007, together with accrued but unpaid interest on the sum of the foregoing at the rate of 12% per annum compounded from December 1, 2007 to May 1, 2010, which amount is \$392,805.94, with interest accruing until paid, together with pre-judgment attorney fees and costs of \$164,418.97, as of March 31, 2010, fees for April, 2010, and attorneys fees to collect the judgment.

2. All counterclaims, third-party claims, cross claims, and any other claims described in the Trust's Amended Answer, Counterclaim, Third-Party Complaint, and Demand for Jury Trial are dismissed with prejudice.

3. This is the final Order in this case.

DATED this 17th day of May, 2010.

BY THE COURT



Honorable Ted Stewart

Approved as to form and content the foregoing (Proposed) Order, Final Judgment and Dismissal of Counterclaims, Third-Party Claims, and Cross-Claims:

MAGLEBY & GREENWOOD

Name: _____
Attorneys for Margery Rubin, as Trustee of the
Rubin Family Irrevocable Stock Trust

FILED
U.S. DISTRICT COURT
2010 MAY 17 A 10:05

DISTRICT OF UTAH
BY: DEPUTY CLERK

James E. Magleby (7247)
magleby@mgpclaw.com
Jason A. McNeill (9711)
mcneill@mgpclaw.com
MAGLEBY & GREENWOOD, P.C.
170 South Main Street, Suite 350
Salt Lake City, Utah 84101-3605
Telephone: 801.359.9000
Facsimile: 801.359.9011

Attorneys for Defendant Codale Electric Supply, Inc.

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

**MP NEXLEVEL, LLC, a Minnesota
limited liability company,**

Plaintiff,

v.

**CODALE ELECTRIC SUPPLY, INC., a
Utah corporation, and YUCCA
TELECOMMUNICATIONS
SYSTEMS, INC., a New Mexico
corporation, FURUKAWA ELECTRIC
NORTH AMERICA, INC., a Delaware
corporation, and SUPERIOR ESSEX,
INC., a Delaware corporation,**

Defendants.

**ORDER GRANTING EXTENSION OF
TIME FOR CODALE TO RESPOND
TO PLAINTIFF'S COMPLAINT**

Civil No. 08-CV-00727

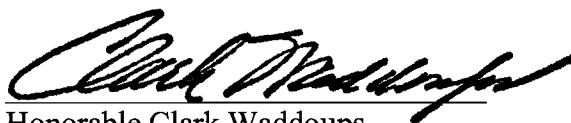
Honorable Clark Waddoups

Based upon the stipulation of Defendant Codale Electric Supply, Inc. ("Codale") and Plaintiff MP Nexlevel, LLC ("MP"), and for good cause appearing, it is hereby **ORDERED** that Codale is granted an extension of time until Tuesday, May 18, 2010 to respond to Plaintiff's

Complaint.

DATED this 14th day of May, 2010.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Clark Waddoups", written over a horizontal line.

Honorable Clark Waddoups
United States District Court

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

CLARA PALACIOS,
Plaintiff,

v.

SURE SYSTEMS, LLC, MARCELO A.
OCCON, PRO TOUCH BUILDING
MAINTENANCE LLC, WALACE P.
NUNES, and MAURICIO
NASCIMENTO,
Defendants.

Case No. 2:08-CV-755-CW-SA

**ORDER RE. MOTION FOR
ALTERNATIVE SERVICE**

Before the court is Plaintiff Clara Palacios's Motion for Alternative Service. (Doc. 63.) In her motion, Plaintiff explains that she has just recently obtained the last known contact information for Defendant Mauricio Nascimento, who is currently residing in Brazil. (Doc. 64.) Plaintiff requests that, because Defendant Nascimento is out of the country and therefore cannot be served by traditional means, the Court allow Plaintiff to serve Defendant Nascimento by sending a copy of the summons and complaint and the Court's order on this motion to Defendant Nascimento at his address in Brazil by certified mail and by email, by sending a notice to his last known congregation, and by placing a notice in a Brazilian newspaper of general

circulation for four consecutive weekends. Plaintiff also requests that the court retroactively extend the time during which service can be effected and allow Plaintiff more time to be allowed to serve Defendant Nascimento through alternative means.

In relevant part, Rule 4(f) of the Federal Rules of Civil Procedure provides:

Unless federal law provides otherwise, an individual . . . may be served at a place not within any judicial district of the United States:

(1) by any internationally agreed means of service that is reasonably calculated to give notice, such as those authorized by the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents;

(2) if there is no internationally agreed means, or if an international agreement allows but does not specify other means, by a method that is reasonably calculated to give notice:

(A) as prescribed by the foreign country's law for service in that country in an action in its courts of general jurisdiction;

(B) as the foreign authority directs in response to a letter rogatory or letter of request; or

(C) unless prohibited by the foreign country's law, by:

(i) delivering a copy of the summons and of the complaint to the individual personally; or

(ii) using any form of mail that the clerk addresses and sends to the individual and that requires a signed receipt; or

(3) by other means not prohibited by international agreement, as the court orders.

Fed. R. Civ. P. 4(f).

In order to be certain that service of Defendant Nascimento is effectuated according to the requirements of the above-quoted rule, the court must first determine whether there exists an internationally agreed means of service that is reasonably calculated to give notice, such as those authorized by the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents, that governs service of Defendant Nascimento in this case. Accordingly,

IT IS HEREBY ORDERED that Plaintiff inform the court by June 1, 2010, whether an agreed means of service, as set forth in Rule 4(f)(1) (quoted above) exists that governs service of Defendant Nascimento in this case.

IT IS ALSO ORDERED that Plaintiff's motion requesting an extension of time to serve Defendant Nascimento, which is part of Plaintiff's Motion for Alternative Service (Doc. 63) be **GRANTED**. The time during which Plaintiff can effectuate service on Defendant Nascimento is hereby retroactively extended and Plaintiff is granted 120 additional days, from the date of this order, to serve Defendant Nascimento.

DATED this 17th day of May, 2010.

BY THE COURT:

A handwritten signature in blue ink, appearing to read 'Samuel Alba', is written above a horizontal line.

SAMUEL ALBA
United States Magistrate Judge

WILLIAM H. CHRISTENSEN (4810)
LISA C. RICO (8901)
LARSEN CHRISTENSEN & RICO, PLLC
50 West Broadway, Suite 400
Salt Lake City, Utah 84101-2006
Telephone: (801) 364-6500
wchristensen@larsenrico.com

U.S. DISTRICT COURT
SALT LAKE CITY
2008 MAY 14 P 3:17
CLERK OF COURT
JANET L. JOHNSON

Attorneys for Defendants Canyon View Title Insurance Agency, Inc.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

CHRISTOPHER A. RUSSELL, an
individual,

Plaintiff,

vs.

CANYON VIEW TITLE INSURANCE
AGENCY, INC., a Utah corporation,

Defendant.

2:08cv-808 TS

**ORDER GRANTING MOTION TO
WITHDRAW AS COUNSEL FOR
CANYON VIEW TITLE INSURANCE
AGENCY, INC.**

Judge Ted Stewart

Based on the Motion to Withdraw as Counsel for Canyon View Title Insurance Agency, Inc., filed with the consent of Canyon View Title Insurance Agency, Inc., and good cause appearing therefore,

IT IS HEREBY ORDERED as follows:

1. The Motion is GRANTED.
2. Canyon View Title shall make an appearance in this action through newly appointed counsel by no later than twenty (20) days after the date this Order is entered.

DATED this 12th day of May, 2010.

BY THE COURT:



~~Honorable Ted Stewart~~ Samuel Alba
United States District Judge
Magistrate

APPROVED AS TO FORM:

JONES WALDO HOLBROOK & McDONOUGH

/s/ Vincent C. Rampton
Vincent C. Rampton
Attorneys for Henry Barlow

United States District Court

DISTRICT OF UTAH

UNITED STATES OF AMERICA

V.

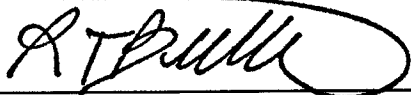
ORDER OF DISCHARGE
AND DISMISSAL

LUKE PAULSEN

CASE NUMBER: 2:09-CR-00226-001

WHEREAS, the above-named defendant having previously been placed on probation under 18 U.S.C. § 3607 for a period not exceeding one year, and the Court having determined that said defendant has completed the period of probation without violation,

IT IS ORDERED that pursuant to 18 U.S.C. § 3607(a), the Court, without entry of judgment, hereby discharges the defendant from probation and dismisses those proceedings for which probation had been ordered.



Honorable Robert T. Braithwaite
United States Magistrate Judge

5/14/2010

Date

DOUGLAS D. TERRY (4158)
RYAN D. STOUT (10300)
Douglas D. Terry & Associates PC
Attorneys for Defendant
150 North 200 East, Suite 202
St. George, Utah 84770
Telephone: (435)628-4411

**FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH**

MAY 17 2010

D. MARK JONES, CLERK
BY  **DEPUTY CLERK**

**UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

UNITED STATES OF AMERICA,)	
)	ORDER
Plaintiff,)	
vs.)	
)	
FILIPPE JESUS MENDOZA-SORZANO,)	Case No. 2:09-cr-00315-DAK-1
Defendant.)	Judge Robert Braithwaite

Upon Stipulation of the parties and good cause appearing,

IT IS HEREBY ORDERED THAT counsel for Defendant be granted an extension of time in which to file an objection to Judge Braithwaite's "Report and Recommendations", from May 14, 2010, to May 28, 2010.

DATED this ____ day of May, 2010.


District Court Judge

 Magistrate

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MICHAEL LEE GRIFFIN,

Defendant.

**ORDER and MEMORANDUM
DECISION**

Case No. 2:08-cr-480 CW

Defendant Michael Lee Griffin has been charged with unlawful possession of a firearm. He moves to suppress evidence and statements obtained by the government on June 9, 2009 through a confession in a public parking lot before being read his *Miranda* rights, a search of his home, and confession he made after being read a *Miranda* warning.

Mr. Griffin asserts that the government violated his Fifth Amendment right to remain silent and his Fourth Amendment right to be free of unreasonable searches. Specifically, he contends that (1) the police obtained his confession in the parking lot in violation of *Miranda*;; (2) the police searched his house without his consent, and; (3) the confession he gave after he was read his *Miranda* rights was tainted by the police's earlier violations.

Because the court finds for the reasons below that Mr. Griffin voluntarily confessed, voluntarily consented to the search of his home, and waived his *Miranda* rights after being read them, the court DENIES his motion to suppress.

BACKGROUND

On June 4, 2009, West Valley City Police received information that Mr. Griffin was in possession of stolen firearms. Mr. Griffin was known by the police to be a convicted felon.

Police began to watch Mr. Griffin's home. At about 8:35 p.m., police saw Mr. Griffin leave his residence in a car. Mr. Griffin was seated in the front seat as his step father, Dale Baumgaerelt, drove. Mr. Griffin's girlfriend was seated in the rear passenger-side of the car.

Two unmarked police cars, one driven by Detective John Lefavor, followed Mr. Baumgaerelt's car. Mr. Baumgaerelt then turned into the parking lot of a grocery store and pulled into a parking stall. Both unmarked police cars parked behind Mr. Baumgaerelt's car, impeding it from leaving. Detective Lefavor turned on his vehicle's emergency lights, but did not activate the siren.

Detective Lefavor was dressed in plain clothes, but was wearing a police-badge necklace, a holstered firearm, and a pair of handcuffs. The other officer who initially pulled his car into the parking lot was dressed similarly. Detective Lefavor got out of his car and walked up to the side of the car where Mr. Griffin was sitting. Detective Lefavor asked Mr. Griffin to step out of the vehicle. Detective Lefavor and Mr. Griffin then walked to the rear of Mr. Baumgaerelt's car to speak. Other law enforcement officers soon arrived to the parking lot but did not participate in the conversation. There were also members of the public in the parking lot at the time.

Detective Lefavor began the conversation by telling Mr. Griffin that police had information that Mr. Griffin had firearms and that police wanted to recover the guns. In response, Mr. Griffin stated that he had the guns and that he was willing to go to his house and give the guns to police. Detective Lefavor explained to Mr. Griffin that per police department policy he was going to place Mr. Griffin in handcuffs in order to transport him. Mr. Griffin was handcuffed and placed in the front seat of Detective Lefavor's unmarked police car.

It was a short drive between the parking lot and Mr. Griffin's home, so the drive took only a few minutes. On the way to Mr. Griffin's residence, Mr. Griffin told Detective Lefavor

that he was concerned about his mother finding out about the guns. Mr. Griffin asked Detective Lefavor if he could retrieve the guns from the home and bring them out to police. Detective Lefavor conveyed Mr. Griffin's request to the police sergeant, but the police sergeant instructed Detective Lefavor to deny the request.

When Detective Lefavor and Mr. Griffin arrived at Mr. Griffin's home, there were a number of police officers already there. Detective Lefavor followed Mr. Griffin through an open door into the home. Once inside, Mr. Griffin indicated that the guns were underneath a blanket behind the couch. Police looked behind the couch and found three rifles.

Detective Lefavor then drove Mr. Griffin to the police station to interview him. Detective Lefavor began the interview by obtaining Mr. Griffin's personal information. Detective Lefavor then read Mr. Griffin his rights from a written *Miranda* card. Mr. Griffin stated that he understood his rights and that he was willing to answer questions. Mr. Griffin made incriminating statements during the interview. Mr. Griffin remained cooperative throughout the investigation.

ANALYSIS

Mr. Griffin moves to suppress all evidence against him related to his admission in the parking lot, the search of his house, and his confession at the interview. He raises three grounds. First, he asserts that his admission in the parking lot was obtained in violation of his Fifth Amendment rights as described in *Miranda v. Arizona*, 384 U.S. 435 (1966). He contends that he was in custody at the time he made the initial incriminating statement and that the statement was the result of an interrogation. Second, Mr. Griffin maintains that the search and seizure of the firearms was unlawful because his consent was not voluntary. Finally, he argues that his post-*Miranda* confession is inadmissible because it was tainted by the earlier violations.

I. Pre-*Miranda* Confession

Statements made during custodial interrogation are not admissible at trial against a defendant unless the defendant was notified of his *Miranda* rights. *See Miranda*, 384 U.S. at 444. The *Miranda* decision applies to “statements obtained from an individual who is subjected to custodial police interrogation.” *Id.* at 439. Accordingly, there are two questions the court must answer to determine whether a *Miranda* warning was necessary: was Mr. Griffin in custody, and did Detective Lefavor’s statements meet the legal definition of an interrogation? *See United States v. Revels*, 510 F.3d 1269, 1273 (10th Cir. 2007). If the answer is yes to these questions, then a defendant’s statements in the absence of the warning are not admissible. *See id.*

On the first question, the court finds that Mr. Griffin was in custody at the time of his initial confession. To determine whether a suspect was in custody, courts consider whether “a reasonable [person] in the suspect’s position would have understood his situation . . . as the functional equivalent of formal arrest.” *U.S. v. Erving L.*, 147 F.3d 1240 (10th Cir. 1998). It is a “fact intensive” inquiry, taking into account the “totality of the circumstances.” *United States v. Griffin*, 7 F.3d 1512, 1518 (10th Cir. 1993). Several factors are considered when making this determination, including “the extent to which the suspect is made aware that he or she is free to refrain from answering questions or to end the interview at will,” the “nature of the questioning,” whether “prolonged accusatory questioning is likely to create a coercive environment from which an individual would not feel free to leave,” and “whether police dominate the encounter.” *United States v. Jones*, 523 F.3d 1235, 1240 (10th Cir. 2008) (quoting *Griffin*, 7 F.3d at 1518).

Here, considering the totality of the circumstances, Mr. Griffin was in custody at the time he made his initial confession. First, two police cars blocked in the car in which Mr. Griffin was driving, indicating that the car was not free to leave. Next, Detective Lefavor directed Mr.

Griffin to step out of the car, with another officer in sight. Finally, Mr. Griffin and Detective Lefavor walked to the back of the car, and other officers began to arrive. A reasonable person in Mr. Griffin's position would have understood himself to be in custody at that point.

The question then becomes whether Detective Lefavor interrogated Mr. Griffin. First, Detective Lefavor's statements are not an interrogation merely because they were made while Mr. Griffin was in custody. *See Rhode Island v. Innis*, 446 U.S. 291, 299 (1980). For *Miranda* purposes, interrogation "refers not only to express questioning, but also to any words or actions on the part of the police (other than those normally attendant to arrest and custody) that the police should know are reasonably likely to elicit an incriminating response from the suspect." *Id.* at 301. To decide whether Detective Lefavor's statement was the functional equivalent of an interrogation, the court makes an objective assessment of whether a reasonable person in Mr. Griffin's position would perceive the officer's statements and actions as interrogation. *See United States v. Rambo*, 365 F.3d 906, 909 (10th Cir. 2004).

Here, Mr. Griffin asserts that Detective Lefavor's statements that police had been informed that Mr. Griffin was in possession of firearms and that police wanted to get them was the equivalent of an interrogation. Mr. Griffin contends that Detective Lefavor carefully chose his words and intended Mr. Griffin to respond in an incriminating way. As noted by the court in *Rambo*, "one of the techniques used by police during interrogation is to 'posit the guilt of the subject.'" *Rambo*, 365 F.3d at 909 (quoting *Innis*, 446 U.S. at 299).

The government responds that Detective Lefavor was merely informing Mr. Griffin of the reason for the encounter and that police had evidence against him, and that such statements are not an interrogation. In support, the government cites a string of cases, including *U.S. v. McGlothen*, 556 F.3d 698, 701 -702 (8th Cir. 2009); *United States v. Moreno-Flores*, 33 F.3d

1164, 1169 (9th Cir. 1994); *Enoch v. Gramley*, 70 F.3d 1490, 1500 (7th Cir. 1995); *U.S. v. Payne*, 954 F.2d 199, 202 (4th Cir. 1992); *United States v. Lockett*, 393 F.3d 834, 838 (8th Cir. 2005); *United States v. Suarez*, 162 Fed. Appx. 897, 902 (11th Cir. 2006); and *United States v. Hurst*, 228 F.3d 751, 760 (6th Cir. 2000).

The court has reviewed cases finding that interrogations had and had not occurred, and considered all of the circumstances. For the reasons discussed below, after this analysis, the court agrees with the government that Detective Lefavor's statements to Mr. Griffin before Mr. Griffin confessed were not an interrogation for *Miranda* purposes.

First, as stated by the Seventh Circuit in *Enoch*, “[b]riefly reciting to a suspect in custody the basis for holding him, without more, cannot be the functional equivalent of an interrogation.” *Enoch*, 70 F.3d at 1500. *See also United States v. Eastom*, 320 Fed. Appx. 879, 885 (10th Cir. 2009) (a “police explanation of why they were in [a suspect’s] home” was “alone insufficient to constitute interrogation.”). In context, it is clear that Detective Lefavor’s statements are reasonably understood as telling Mr. Griffin the reason for the police’s actions in taking him into custody. A reasonable officer would know that most people would expect an explanation of why two unmarked police cars boxed in his or her car and told him or her to step out. Further, while it is not necessary for an officer to ask questions to meet the definition of an interrogation, *see Rambo*, 365 F.3d at 909, it is nonetheless important to note that Detective Lefavor made the statements as declarations, not as questions. This form of speaking lessens the impression that a reasonable officer would expect an inculpatory response. Moreover, Mr. Griffin concedes that he confessed immediately after Detective Lefavor made his statements. In sum, there is no evidence that Detective Lefavor, or a reasonable officer in his place, should have anticipated that Mr. Griffin would immediately confess in response to those statements.

The circumstances of the present case are quite unlike the interaction that the Tenth Circuit found was an interrogation in *Rambo*. In that case, a police officer was talking to a suspect who was in custody in an “interrogation room.” *Rambo*, 365 F.3d at 907. The officer opened a conversation by implying that the defendant was guilty and by informing him that he was going to charge a suspected accomplice. *See id.* at 908. The officer further appeared to play on the suspect’s concerns about his suspected accomplice’s children. *See id.* Finally, the officer directed the suspect several times to the matter under investigation.. *See id.* Considering these key circumstances along with the overall context, the Tenth Circuit held that the officer had interrogated the suspect. *See id.* at 909-10.

The court is cognizant that an interaction need not reach the level of that described in *Rambo* to be an interrogation, and that each case must be judged on its own facts. But after considering the full context and circumstances here, the court is satisfied that this case falls in the realm of cases such as *Enoch* and *Eastom* that conclude that there was no interrogation and is distinguishable from cases such as *Rambo* that reach the opposite conclusion.

Accordingly, the court finds that Mr. Griffin made his confession voluntarily, and without interrogation by the police. Such statements are not are admissible even if no *Miranda* warning is given. *See United States v. Torres-Guevara*, 147 F.3d 1261, 1266 (10th Cir. 1998) (“Because the statement was volunteered, rather than given in response to any interrogation, this statement also was admissible in the absence of *Miranda* warnings.”) (citation omitted). This conclusion is true even if the person is in custody when he or she made the statement. *See United States v. Glover*, 211 Fed. Appx. 811, 814 (10th Cir. 2007) (*Miranda* does not bar admission of voluntary statements, even if made in custody).

II. Evidence from the Search

Voluntary consent is an exception to the Fourth Amendment's search warrant requirement. *See United States v. Silva-Arzeta*, - - - F.3d - - -, 2010 WL 1662480, *3 (10th Cir. April 27, 2010). If a person voluntarily consents to a search, he or she waives of his or her Fourth Amendment rights in the item or place. *See id.* Whether a defendant voluntarily consented to a search is a question of fact, determined by the totality of the circumstances. *See id.* "Valid consent is that which is freely and voluntarily given." *United States v. Patten*, 183 F.3d 1190, 1194 (10th Cir.1999) (citation omitted). There is no presumption that the consent was voluntary, or that it was involuntary. *United States v. Hernandez*, 93 F.3d 1493, 1500 (10th Cir. 1996). The government has the burden of proving the consent was voluntary. *See id.*

"The central question is whether a reasonable person would believe he was free to ... disregard the officer's request." *Silva-Arzeta*, 2010 WL 1662480, *4 (quoting *United States v. Ledesma*, 447 F.3d 1307, 1314 (10th Cir. 2006)). "The proper inquiry centers on whether the defendant suffered, inter alia, physical mistreatment, use of violence or threats of violence, promises or inducements, deception or trickery." *Silva-Arzeta*, 2010 WL 1662480, *4 (quoting *United States v. Dozal*, 173 F.3d 787, 796 (10th Cir. 1999))

Courts also look to factors such as 1) the youth, lack of education, or low intelligence of the defendant; 2) the lack of any advice as to the defendant's constitutional rights; 3) the length of detention; 4) the repeated and prolonged nature of the questioning; 5) degree to which the individual cooperates with police; and 6) the use of physical punishment such as the deprivation of food or sleep. *See Schneckloth v. Bustamonte*, 412 U.S. 218, 226 (1973).

In this case, Mr. Griffin offered to go to his house and turn the firearms over to police without having Detective Lefavor even asking him to do so. The interaction between Mr. Griffin

and Detective Lefavor before Mr. Griffin consented was short – almost immediately after Detective Lefavor informed him of the reason for the stop. *See, e.g., United States v. Figueroa-Espana*, 511 F.3d 696, 705 (7th Cir. 2007) (consent voluntary because defendant immediately consented after single question from law enforcement officer). Detective Lefavor did not subject Mr. Griffin to repeated or prolonged questioning or use any other coercive techniques before Mr. Griffin consented. Moreover, Mr. Griffin was cooperative with police from the initial encounter until the search was completed, and the court has no indication from the record that he is incapable of intelligently giving consent and cooperation. While it is true that there were two officers in the parking lot initially and that more arrived as the situation unfolded, Mr. Griffin gives no authority for the proposition that the mere presence of more than one officers is by itself coercive. Nor does the record reflect that any of those officers threatened, approached, or otherwise interacted with Mr. Griffin in a way that might have intimidated him. Instead, Mr. Griffin spoke to Detective Lefavor alone, who took no actions against Mr. Griffin that could reasonably be construed as coercive.

Accordingly, the court cannot find that police used any coercion in obtaining consent from Mr. Griffin. This outcome holds true even though Detective Lefavor did not tell Mr. Griffin that he could withhold consent and Mr. Griffin was in custody. *See United States v. Thompson*, 524 F.3d 1126, 1134 (10th Cir. 2008) (consent to search voluntary because consent was not coerced despite the fact officers did not inform homeowner of right to refuse) and *U.S. v. Contreras*, 506 F.3d 1031, 1037 (10th Cir. 2007) (ruling that “detention is only one factor to be considered in determining whether consent was voluntarily and freely given based on the totality of the circumstances.”). Mr. Griffin’s consent to the search of his home was therefore voluntary and evidence obtained during that search is admissible.

Mr. Griffin argues that he attempted to limit the scope of the search of his home by requesting that he be allowed to bring out the firearms himself. *See United States v. Sanchez*, 89 F.3d 715, 719 (10th Cir. 1996). Under the circumstances, the court cannot find that Mr. Griffin's request to get the firearms himself was a cognizable attempt to limit the scope of the search. Mr. Griffin was essentially asking police to trust him to go alone into a house where his parents and at least one sibling also lived and retrieve firearms that may have been loaded. Such a request is so inconsistent with the safety of the officers and the public that a reasonable person in Mr. Griffin's position could not have believed it would be granted. Moreover, even if this were a *bona fide* attempt by Mr. Griffin to limit the scope of consent, Mr. Griffin made no attempt to withdraw his consent when Detective Lefavor told him that he could not get the firearms himself. Instead, Mr. Griffin led police directly to the firearms very soon after having his request declined. In that scenario, Mr. Griffin voluntarily expanded the scope of consent after limiting it.

III. Post-Miranda Confession

Mr. Griffin does not deny that he waived his right to remain silent after being read his *Miranda* rights at the station. Instead, the sole basis for Mr. Griffin's argument that his post-*Miranda* confession should be suppressed is that it was tainted by earlier violations of his Fourth and Fifth Amendment rights. As is clear from the above discussion, however, the court has found that no such violations occurred. Accordingly, his statements at the police interview are admissible.

CONCLUSION

For the reasons set forth above, Mr. Griffin's motion to suppress is DENIED.

SO ORDERED this 17th day of May, 2010.

BY THE COURT:



Clark Waddoups
United States District Judge

MAY 17 2010

United States District Court
District of Utah

BY D. MARK JONES, CLERK
DEPUTY CLERK

UNITED STATES OF AMERICA

vs.

Jeffery Michael Weiland

**JUDGMENT IN A CRIMINAL CASE
AS AMENDED**

Case Number: **2:09-cr-00597-RTB**

Plaintiff Attorney: **Paul Kohler**

Defendant Attorney: **Ben Gordon**

Date of Imposition: April 26, 2010

☒ pleaded guilty to count(s)

Count I

☐ pleaded nolo contendere to count(s)
which was accepted by the court.

☐ was found guilty on count(s)

Title & Section

18:111(a)

Nature of Offense

Simple Assault

**Count
Number(s)**

I

☐ The defendant has been found not guilty on count(s) count

☐ Count(s) _____ (is)(are) dismissed on the motion of the United States.

SENTENCE

Pursuant to the Sentencing Reform Act of 1984, it is the judgment and order of the Court that the defendant be committed to the custody of the United States Bureau of Prisons for a term of _____.

Upon release from confinement, the defendant shall be placed on supervised release for a term of _____.

The defendant is placed on Probation for a term of 12 months supervised.

The defendant shall not commit another federal, state or local crime.

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter.

☐ The above drug testing condition is suspended based on the court's determination that the defendant possesses a low risk of future substance abuse. (Check if applicable.)

Defendant: Jeffery Michael Weiland
Case Number: 2:09-cr-00597-RTB

If this judgment imposes a fine or a restitution obligation, it shall be a condition of supervised release/probation that the defendant pay any such fine or restitution in accordance with the Schedule of Payments set forth in the Criminal Monetary Penalties section of this judgment.

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below).
The defendant shall also comply with the additional conditions in this judgment.

STANDARD CONDITIONS OF SUPERVISED RELEASE/PROBATION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

SPECIAL CONDITIONS OF SUPERVISED RELEASE / PROBATION

In addition to all Standard Conditions of Supervised Release or Probation set forth above, the following Special

Case Number: 2:09-cr-00597-RTB

1. The Defendant shall serve 75 days in the Washington County Purgatory Facility with credit for 34 days, leaving a balance of 41 days to be served with the BOP.

CRIMINAL MONETARY PENALTIES

FINE

The defendant shall pay a fine in the amount of **\$ 300.00** , payable as follows:

- ☐ forthwith.
- ☐ in accordance with the Bureau of Prison's Financial Responsibility Program while incarcerated and thereafter pursuant to a schedule established by the U.S. Probation office, based upon the defendant's ability to pay and with the approval of the court.
- ☐ in accordance with a schedule established by the U.S. Probation office, based upon the defendant's ability to pay and with the approval of the court.
- ☒ other:
as directed by the probation department

- ☐ The defendant shall pay interest on any fine more than \$2,500, unless the fine is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f).
- ☐ The court determines that the defendant does not have the ability to pay interest and pursuant to 18 U.S.C. § 3612(f)(3), it is ordered that:
- ☐ The interest requirement is waived.
- ☐ The interest requirement is modified as follows:

RESTITUTION

The defendant shall make restitution to the following payees in the amounts listed below:

Name and Address of Payee	Amount of Loss	Amount of Restitution Ordered
---------------------------	----------------	-------------------------------

Totals:	\$	\$
----------------	----	----

(See attachment if necessary.) All restitution payments must be made through the Clerk of Court, unless directed otherwise. If the defendant makes a partial payment, each payee shall receive an approximately proportional payment unless otherwise specified.

- ☐ Restitution is payable as follows:
- ☐ in accordance with a schedule established by the U.S. Probation Office, based upon the defendant's ability to pay and with the approval of the court.

Defendant: Jeffery Michael Weiland
Case Number: 2:09-cr-00597-RTB

- ☐ The defendant having been convicted of an offense described in 18 U.S.C. § 3663A(c) and committed on or after 04/25/1996, determination of mandatory restitution is continued until _____ pursuant to 18 U.S.C. § 3664(d)(5) (not to exceed 90 days after sentencing).
☐ An Amended Judgment in a Criminal Case will be entered after such determination

SPECIAL ASSESSMENT

The defendant shall pay a special assessment in the amount of \$ 25.00, payable as follows:

- ☐ forthwith.
☒ as directed by the probation department

PRESENTENCE REPORT / OBJECTIONS

- ☐ The court adopts the factual findings and guideline application in the presentence report.
☐ The court adopts the factual findings and guideline application in the presentence report, except as set forth below:

Guideline Range Determined by the Court:

Total Offense Level: _____

Criminal History Category: _____

Imprisonment Range: _____ to _____ months

Supervised Release Range: _____ to _____ years

Fine Range: _____ to _____

RECOMMENDATION

- ☐ Pursuant to 18 U.S.C. § 3621(b)(4), the Court makes the following recommendations to the Bureau of Prisons:

CUSTODY/SURRENDER

- ☒ The defendant is remanded to the custody of the United States Marshal.
☐ The defendant shall surrender to Washington County Correctional Facility at Purgatory at _____ on _____.
☐ The defendant shall report to the institution designated by the Bureau of Prisons by _____ Institution's local time, on _____.

DATE:

5-17-10


Robert T. Braithwaite

FILED
U.S. DISTRICT COURT

United States District Court

District of Utah

2010 MAY 14 P 4:30

UNITED STATES OF AMERICA

vs.

Cooper R. Bills

JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed On or After November 1, 1987)

Case Number: DUTX 209CR000659-001

Plaintiff Attorney: **Stanley H. Olsen**

Defendant Attorney: **Daryl P. Sam**

Atty: CJA ___ Ret ___ FPD ☒

Last 4 - Dft's Soc. Sec. No: **8013**

Defendant's Year of Birth: **1991**

Defendant's USM No.: **N/A**

Defendant's Residence Address:

Sandy, UT 84092

Country USA

5/6/2010 As Amended from 9/17/2009

Date of Imposition of Sentence

Defendant's Mailing Address:

Sandy, UT 84092

Country USA

THE DEFENDANT:

☒ pleaded guilty to count(s)

☐ pleaded nolo contendere to count(s)
which was accepted by the court.

☐ was found guilty on count(s)

COP **9/17/2009** Verdict

1 of the Misdemeanor Information

Title & Section

21 U.S.C. §844

Nature of Offense

MARIJUANA- POSSESSION/ Simple Possession
of a Controlled Substance

Count

Number(s)

1

☐ The defendant has been found not guilty on count(s)

☐ Count(s) (is)(are) dismissed on the motion of the United States.

SENTENCE

Pursuant to the Sentencing Reform Act of 1984, it is the judgment and order of the Court that the defendant be committed to the custody of the United States Bureau of Prisons for a term of

Upon release from confinement, the defendant shall be placed on supervised release for a term of

☒ The defendant is placed on Probation for a period of **12 Months from 9/17/09**.
The defendant shall not illegally possess a controlled substance.

For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter, as directed by the probation officer.

- ☐ The above drug testing condition is suspended based on the court's determination that the defendant possesses a low risk of future substance abuse. (Check if applicable.)

SPECIAL CONDITIONS OF SUPERVISED RELEASE/PROBATION

In addition to all Standard Conditions of (Supervised Release or Probation) set forth in PROBATION FORM 7A, the following Special Conditions are imposed: (see attachment if necessary)

1. Probation under 18 U.S.C. 3607 is revoked, conviction entered. 12 Months Probation shall continue from 9/17/2009.
2. The Defendant shall submit to drug/ alcohol testing, as directed by the probation office, and pay a one-time \$115 fee to partially defer the costs of collection and testing. If deemed appropriate by the Court and the probation office, the defendant will pay additional costs associated with confirmation and testing of positive results reported to the Court.
3. All previous terms and conditions remain in effect.

CRIMINAL MONETARY PENALTIES

FINE

The defendant shall pay a fine in the amount of \$ 1000.00 , payable as follows:

- ☐ forthwith.
- ☐ in accordance with the Bureau of Prison's Financial Responsibility Program while incarcerated and thereafter pursuant to a schedule established by the U.S. Probation office, based upon the defendant's ability to pay and with the approval of the court.
- ☐ in accordance with a schedule established by the U.S. Probation office, based upon the defendant's ability to pay and with the approval of the court.
- ☒ other:
Due 9/17/2010

- ☐ The defendant shall pay interest on any fine more than \$2,500, unless the fine is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f).
- ☐ The court determines that the defendant does not have the ability to pay interest and pursuant to 18 U.S.C. § 3612(f)(3), **it is ordered that:**
- ☐ The interest requirement is waived.
- ☐ The interest requirement is modified as follows:

RESTITUTION

The defendant shall make restitution to the following payees in the amounts listed below:

<u>Name and Address of Payee</u>	<u>Amount of Loss</u>	<u>Amount of Restitution Ordered</u>
----------------------------------	-----------------------	--

Totals: \$ _____ \$ _____

(See attachment if necessary.) All restitution payments must be made through the Clerk of Court, unless directed otherwise. If the defendant makes a partial payment, each payee shall receive an approximately proportional payment unless otherwise specified.

☐ Restitution is payable as follows:

☐ in accordance with a schedule established by the U.S. Probation Office, based upon the defendant's ability to pay and with the approval of the court.

☐ other: _____

☐ The defendant having been convicted of an offense described in 18 U.S.C. § 3663A(c) and committed on or after 04/25/1996, determination of mandatory restitution is continued until _____ pursuant to 18 U.S.C. § 3664(d)(5)(not to exceed 90 days after sentencing).

☐ An Amended Judgment in a Criminal Case will be entered after such determination

SPECIAL ASSESSMENT

The defendant shall pay a special assessment in the amount of \$ 25.00, payable as follows:

☐ forthwith.

☒ Due 9/17/2010. Defendant shall also pay a \$115 drug testing fee due 9/17/2010.

IT IS ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid

PRESENTENCE REPORT/OBJECTIONS

The court adopts the factual findings and guidelines application recommended in the presentence report except as otherwise stated in open court.

DEPARTURE

The Court does not grant the Motion for Departure pursuant to 18 U.S.C. 3553(c)(2), the Court enters its reasons for departure:

Defendant: Cooper R. Bills
Case Number: 209CR000659-001

Page 4 of 5

RECOMMENDATION

- ☐ Pursuant to 18 U.S.C. § 3621(b)(4), the Court makes the following recommendations to the Bureau of Prisons:
-

CUSTODY/SURRENDER

- ☐ The defendant is remanded to the custody of the United States Marshal.
- ☐ The defendant shall surrender to the United States Marshal for this district at _____ on _____.
- ☐ The defendant shall report to the institution designated by the Bureau of Prisons by _____ Institution's local time, on _____.

DATE:

5/14/2010



Robert T. Braithwaite
United States Magistrate Judge

Defendant: Cooper R. Bills
Case Number: 209CR000659-001

Page 5 of 5

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
Deputy U.S. Marshal

United States District Court District of Utah

UNITED STATES OF AMERICA

vs.

John P. Maxim

JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed On or After November 1, 1987)

Case Number: DUTX 209CR000670-001

Plaintiff Attorney: **Stanley H. Olsen**

Defendant Attorney: **Pro Se**

Atty: CJA ___ Ret ___ FPD ___

Last 4 - Dft's Soc. Sec. No: **7055**

Defendant's Year of Birth: **1977**

Defendant's USM No.: **N/A**

Defendant's Residence Address:

Salt Lake City, UT 84103

Country **USA**

5/6/2010

Date of Imposition of Sentence

Defendant's Mailing Address:

Salt Lake City, UT 84103

Country **USA**

THE DEFENDANT:

☒ pleaded guilty to count(s)

☐ pleaded nolo contendere to count(s)
which was accepted by the court.

☐ was found guilty on count(s)

COP **5/6/2010** Verdict

1 of the Misdemeanor Information

Title & Section

43 U.S.C. §1701

Nature of Offense

FEDERAL LAND POLICY AND MANAGEMENT/
Unauthorized Disposal of Household, Commercial,
and Industrial Refuse and Waste (43 U.S.C. 1701 and
43 C.F.R. 8365.1-1(b)(4))

Count

Number(s)

1

☐ The defendant has been found not guilty on count(s)

☐ Count(s) (is)(are) dismissed on the motion of the United States.

SENTENCE

Pursuant to the Sentencing Reform Act of 1984, it is the judgment and order of the Court that the defendant be committed to the custody of the United States Bureau of Prisons for a term of

Upon release from confinement, the defendant shall be placed on supervised release for a term of

☐ The defendant is placed on Probation for a period of
The defendant shall not illegally possess a controlled substance.

For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter, as directed by the probation officer.

- ☐ The above drug testing condition is suspended based on the court's determination that the defendant possesses a low risk of future substance abuse. (Check if applicable.)

SPECIAL CONDITIONS OF SUPERVISED RELEASE/PROBATION

In addition to all Standard Conditions of (Supervised Release or Probation) set forth in PROBATION FORM 7A, the following Special Conditions are imposed: (see attachment if necessary)

1.

CRIMINAL MONETARY PENALTIES

FINE

The defendant shall pay a fine in the amount of \$ _____, payable as follows:

- ☐ forthwith.
- ☐ in accordance with the Bureau of Prison's Financial Responsibility Program while incarcerated and thereafter pursuant to a schedule established by the U.S. Probation office, based upon the defendant's ability to pay and with the approval of the court.
- ☐ in accordance with a schedule established by the U.S. Probation office, based upon the defendant's ability to pay and with the approval of the court.
- ☒ other:
No Fine Imposed

- ☐ The defendant shall pay interest on any fine more than \$2,500, unless the fine is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f).
- ☐ The court determines that the defendant does not have the ability to pay interest and pursuant to 18 U.S.C. § 3612(f)(3), **it is ordered that:**
- ☐ The interest requirement is waived.
- ☐ The interest requirement is modified as follows:

RESTITUTION

The defendant shall make restitution to the following payees in the amounts listed below:

<u>Name and Address of Payee</u>	<u>Amount of Loss</u>	<u>Amount of Restitution Ordered</u>
BLM- Salt Lake Field Office Attn: Ranger Randal A. Griffin 2370 South 2300 West Salt Lake City, UT 84119	\$600.00	\$600.00

<u>Name and Address of Payee</u>	<u>Amount of Loss</u>	<u>Amount of Restitution Ordered</u>
	Totals: \$ <u>600.00</u>	\$ <u>600.00</u>

(See attachment if necessary.) All restitution payments must be made through the Clerk of Court, unless directed otherwise. If the defendant makes a partial payment, each payee shall receive an approximately proportional payment unless otherwise specified.

☒ Restitution is payable as follows:

☐ in accordance with a schedule established by the U.S. Probation Office, based upon the defendant's ability to pay and with the approval of the court.

☒ other:

Due 11/10/2010

☐ The defendant having been convicted of an offense described in 18 U.S.C. § 3663A(c) and committed on or after 04/25/1996, determination of mandatory restitution is continued until _____ pursuant to 18 U.S.C. § 3664(d)(5)(not to exceed 90 days after sentencing).

☐ An Amended Judgment in a Criminal Case will be entered after such determination

SPECIAL ASSESSMENT

The defendant shall pay a special assessment in the amount of \$ _____, payable as follows:

☐ forthwith.

☒ Waived

IT IS ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid

PRESENTENCE REPORT/OBJECTIONS

The court adopts the factual findings and guidelines application recommended in the presentence report except as otherwise stated in open court.

DEPARTURE

The Court grant the Motion for Departure pursuant to 18 U.S.C. 3553(c)(2), the Court enters its reasons for departure:

RECOMMENDATION

☐ Pursuant to 18 U.S.C. § 3621(b)(4), the Court makes the following recommendations to the Bureau of Prisons:

Defendant: John P. Maxim
Case Number: 209CR000670-001

Page 4 of 5

CUSTODY/SURRENDER

- ☐ The defendant is remanded to the custody of the United States Marshal.
- ☐ The defendant shall surrender to the United States Marshal for this district at _____ on _____.
- ☐ The defendant shall report to the institution designated by the Bureau of Prisons by _____ Institution's local time, on _____.

DATE: 5/14/2010



Robert T. Braithwaite
United States Magistrate Judge

Defendant: John P. Maxim
Case Number: 209CR000670-001

Page 5 of 5

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
Deputy U.S. Marshal

United States District Court

District of Utah

UNITED STATES OF AMERICA

vs.

Shane B. Prettyman

JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed On or After November 1, 1987)

Case Number: DUTX 209CR000796-001

Plaintiff Attorney: Stanley H. Olsen

Defendant Attorney: Natalie A. Benson

Atty: CJA ___ Ret ___ FPD ☒

Last 4 - Dft's Soc. Sec. No: 2408

Defendant's Year of Birth: 1981

Defendant's USM No.: 17008-081

Defendant's Residence Address:

Sandy, UT 84093

Country USA

5/6/2010

Date of Imposition of Sentence

Defendant's Mailing Address:

Sandy, UT 84093

Country USA

THE DEFENDANT:

☒ pleaded guilty to count(s)☐ pleaded nolo contendere to count(s)
which was accepted by the court.☐ was found guilty on count(s)

COP 5/6/2010 Verdict

1 of the Misdemeanor Information

Title & Section

21 U.S.C. §844

Nature of OffenseMARIJUANA- POSSESSION/ Simple Possession
of a Controlled Substance**Count****Number(s)**

1

☐ The defendant has been found not guilty on count(s)☐ Count(s) (is)(are) dismissed on the motion of the United States.**SENTENCE**

Pursuant to the Sentencing Reform Act of 1984, it is the judgment and order of the Court that the defendant be committed to the custody of the United States Bureau of Prisons for a term of

Upon release from confinement, the defendant shall be placed on supervised release for a term of

☒ The defendant is placed on Probation for a period of 12 Months

The defendant shall not illegally possess a controlled substance.

For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter, as directed by the probation officer.

- ☐ The above drug testing condition is suspended based on the court's determination that the defendant possesses a low risk of future substance abuse. (Check if applicable.)

SPECIAL CONDITIONS OF SUPERVISED RELEASE/PROBATION

In addition to all Standard Conditions of (Supervised Release or Probation) set forth in PROBATION FORM 7A, the following Special Conditions are imposed: (see attachment if necessary)

1. Defendant is placed on 12 months probation.
2. Defendant shall serve 15 days jail. Defendant shall self- surrender on 5/7/2010 at 7:00 PM.
3. Defendant shall submit to one drug test within 15 days of placement on supervision and at least two periodic drug tests thereafter, as directed by the probation officer.
4. Defendant shall submit to the collection of a DNA sample at the direction of the Bureau of Prisons or U.S. Probation Office.
5. Defendant shall not commit any federal, state, or local crime and, shall be prohibited from possessing a firearm or other dangerous device while on supervision.
6. Defendant shall not illegally possess a controlled substance and shall comply with the standard conditions of supervision as adopted by this Court.
7. Defendant shall submit to drug/ alcohol testing as directed by the probation office and pay a one-time \$115.
8. Defendant shall participate in drug and/ or alcohol abuse treatment under a copayment plan as directed by the U.S. Probation Office and shall not possess or consume alcohol during the course of treatment, nor frequent businesses where alcohol is the chief item of order.
9. Defendant shall participate in a mental health treatment program under a copayment plan as directed by the probation office, take any mental health medications as prescribed, and not possess or consume alcohol, nor frequent businesses where alcohol is the primary item of order, during the course of treatment or medication.
10. Defendant shall submit his person, residence, office, or vehicle to a search, conducted by the probation office at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release; failure to submit to a search may be grounds for revocation; the defendant shall warn any other residents that the premises may be subject to searches pursuant to this condition.
11. Defendant may complete Community Service hours at the approved list of locations up to 30 hours in lieu of \$300 of the fine imposed.

CRIMINAL MONETARY PENALTIES

FINE

The defendant shall pay a fine in the amount of \$ 1000.00 , payable as follows:

☐ forthwith.

- ☐ in accordance with the Bureau of Prison's Financial Responsibility Program while incarcerated and thereafter pursuant to a schedule established by the U.S. Probation office, based upon the defendant's ability to pay and with the approval of the court.
- ☐ in accordance with a schedule established by the U.S. Probation office, based upon the defendant's ability to pay and with the approval of the court.
- ☒ other:
Due 5/6/2011

- ☐ The defendant shall pay interest on any fine more than \$2,500, unless the fine is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f).
- ☐ The court determines that the defendant does not have the ability to pay interest and pursuant to 18 U.S.C. § 3612(f)(3), **it is ordered that:**
- ☐ The interest requirement is waived.
- ☐ The interest requirement is modified as follows:

RESTITUTION

The defendant shall make restitution to the following payees in the amounts listed below:

<u>Name and Address of Payee</u>	<u>Amount of Loss</u>	<u>Amount of Restitution Ordered</u>
----------------------------------	-----------------------	--

Totals: \$ _____ \$ _____

(See attachment if necessary.) All restitution payments must be made through the Clerk of Court, unless directed otherwise. If the defendant makes a partial payment, each payee shall receive an approximately proportional payment unless otherwise specified.

- ☐ Restitution is payable as follows:
- ☐ in accordance with a schedule established by the U.S. Probation Office, based upon the defendant's ability to pay and with the approval of the court.
- ☐ other: _____
- ☐ The defendant having been convicted of an offense described in 18 U.S.C. § 3663A(c) and committed on or after 04/25/1996, determination of mandatory restitution is continued until _____ pursuant to 18 U.S.C. § 3664(d)(5)(not to exceed 90 days after sentencing).
- ☐ An Amended Judgment in a Criminal Case will be entered after such determination

SPECIAL ASSESSMENT

The defendant shall pay a special assessment in the amount of \$ 25.00 , payable as follows:
☐ forthwith.

☒ Due 5/6/2011. Defendant shall also pay a \$115 drug testing fee due 5/6/2011.

IT IS ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid

PRESENTENCE REPORT/OBJECTIONS

The court adopts the factual findings and guidelines application recommended in the presentence report except as otherwise stated in open court.

DEPARTURE

The Court grant the Motion for Departure pursuant to 18 U.S.C. 3553(c)(2), the Court enters its reasons for departure:

RECOMMENDATION

☐ Pursuant to 18 U.S.C. § 3621(b)(4), the Court makes the following recommendations to the Bureau of Prisons:

CUSTODY/SURRENDER


☐ The defendant is remanded to the custody of the United States Marshal.

☒ The defendant shall surrender to the USMS or directed jail for this district at 7:00 PM on 5/7/2010 .

☐ The defendant shall report to the institution designated by the Bureau of Prisons by _____ Institution's local time, on _____.

DATE:

5/14/2010


Robert T. Braithwaite
United States Magistrate Judge

Defendant: Shane B. Prettyman
Case Number: 209CR000796

Page 5 of 5

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
Deputy U.S. Marshal

United States District Court

District of Utah

FILED
U.S. DISTRICT COURT
200 MAY 14 P 4:30
CLERK OF COURT
DEPUTY CLERK

UNITED STATES OF AMERICA

vs.

Michael W. Hilton

JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed On or After November 1, 1987)

Case Number: DUTX 209CR000797-001

Plaintiff Attorney: **Stanley H. Olsen**

Defendant Attorney: **Natalie A. Benson**

Atty: CJA ___ Ret ___ FPD **x**

Last 4 - Dft's Soc. Sec. No: 9559

Defendant's Year of Birth: 1985

Defendant's USM No.: N/A

Defendant's Residence Address:

West Valley, UT 84120
Country USA

5/6/2010 As Amended from 11/12/2009
Date of Imposition of Sentence

Defendant's Mailing Address:

West Valley, UT 84120
Country USA

THE DEFENDANT:

- ☒ pleaded guilty to count(s)
- ☐ pleaded nolo contendere to count(s)
which was accepted by the court.
- ☐ was found guilty on count(s)

COP 11/12/2009 Verdict _____

1 of the Misdemeanor Information

Title & Section

21 U.S.C. §844

Nature of Offense

MARIJUANA- POSSESSION/ Simple Possession
of a Controlled Substance

Count

Number(s)

1

- ☐ The defendant has been found not guilty on count(s) _____
- ☐ Count(s) _____ (is)(are) dismissed on the motion of the United States.

SENTENCE

Pursuant to the Sentencing Reform Act of 1984, it is the judgment and order of the Court that the defendant be committed to the custody of the United States Bureau of Prisons for a term of _____

Upon release from confinement, the defendant shall be placed on supervised release for a term of _____

- ☒ The defendant is placed on Probation for a period of 12 Months from 5/6/10.
- The defendant shall not illegally possess a controlled substance.

For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter, as directed by the probation officer.

- ☐ The above drug testing condition is suspended based on the court's determination that the defendant possesses a low risk of future substance abuse. (Check if applicable.)

SPECIAL CONDITIONS OF SUPERVISED RELEASE/PROBATION

In addition to all Standard Conditions of (Supervised Release or Probation) set forth in PROBATION FORM 7A, the following Special Conditions are imposed: (see attachment if necessary)

1. Probation under 18 U.S.C. 3607 is revoked, conviction entered. 12 Months Probation is revoked and reinstated from 5/6/2010.
2. The Defendant shall submit to drug/ alcohol testing, as directed by the probation office, and pay a one-time \$115 fee to partially defer the costs of collection and testing. If deemed appropriate by the Court and the probation office, the defendant will pay additional costs associated with confirmation and testing of positive results reported to the Court.
3. All previous terms and conditions remain in effect.

CRIMINAL MONETARY PENALTIES

FINE

The defendant shall pay a fine in the amount of \$ 1000.00 , payable as follows:

- ☐ forthwith.
- ☐ in accordance with the Bureau of Prison's Financial Responsibility Program while incarcerated and thereafter pursuant to a schedule established by the U.S. Probation office, based upon the defendant's ability to pay and with the approval of the court.
- ☐ in accordance with a schedule established by the U.S. Probation office, based upon the defendant's ability to pay and with the approval of the court.
- ☒ other:
While Under Supervision

- ☐ The defendant shall pay interest on any fine more than \$2,500, unless the fine is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f).
- ☐ The court determines that the defendant does not have the ability to pay interest and pursuant to 18 U.S.C. § 3612(f)(3), **it is ordered that:**
- ☐ The interest requirement is waived.
- ☐ The interest requirement is modified as follows:

RESTITUTION

The defendant shall make restitution to the following payees in the amounts listed below:

<u>Name and Address of Payee</u>	<u>Amount of Loss</u>	<u>Amount of Restitution Ordered</u>
----------------------------------	-----------------------	--

Totals: \$ _____ \$ _____

(See attachment if necessary.) All restitution payments must be made through the Clerk of Court, unless directed otherwise. If the defendant makes a partial payment, each payee shall receive an approximately proportional payment unless otherwise specified.

☐ Restitution is payable as follows:

☐ in accordance with a schedule established by the U.S. Probation Office, based upon the defendant's ability to pay and with the approval of the court.

☐ other:

☐ The defendant having been convicted of an offense described in 18 U.S.C. § 3663A(c) and committed on or after 04/25/1996, determination of mandatory restitution is continued until _____ pursuant to 18 U.S.C. § 3664(d)(5)(not to exceed 90 days after sentencing).

☐ An Amended Judgment in a Criminal Case will be entered after such determination

SPECIAL ASSESSMENT

The defendant shall pay a special assessment in the amount of \$ 25.00, payable as follows:

☐ forthwith.

☒ \$25.00 SPA and \$115 drug testing fee due while under supervision.

IT IS ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid

PRESENTENCE REPORT/OBJECTIONS

The court adopts the factual findings and guidelines application recommended in the presentence report except as otherwise stated in open court.

DEPARTURE

The Court grant the Motion for Departure pursuant to 18 U.S.C. 3553(c)(2), the Court enters its reasons for departure:

RECOMMENDATION

Defendant: Michael W. Hilton
Case Number: 209CR000797-001

Page 4 of 5

- ☐ Pursuant to 18 U.S.C. § 3621(b)(4), the Court makes the following recommendations to the Bureau of Prisons:
-

CUSTODY/SURRENDER

- ☐ The defendant is remanded to the custody of the United States Marshal.
- ☐ The defendant shall surrender to the United States Marshal for this district at _____ on _____.
- ☐ The defendant shall report to the institution designated by the Bureau of Prisons by _____ Institution's local time, on _____.

DATE:

5/14/2010



Robert T. Braithwaite
United States Magistrate Judge

Defendant: Michael W. Hilton
Case Number: 209CR000797-001

Page 5 of 5

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
Deputy U.S. Marshal

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

KEN CLARK, an individual,
Plaintiff,

vs.

MORINDA PROPERTIES ESCALA
LODGES, LC, a Utah limited liability
company; U.S. BANK NATIONAL
ASSOCIATION; SILVERADO
DEVELOPMENT INC. d/b/a SDI
PROPERTIES; KERRY ASAY, an
individual; KIM ASAY, an individual; JOHN
WADSWORTH, an individual; WAYNE
TURNER, an individual; DONALD E.
MULLEN, an individual; EXTREME
HOLDING, LLC d/b/a PRUDENTIAL
UTAH REAL ESTATE, a Utah limited
liability company; DOES 1-20,

Defendants.

MEMORANDUM DECISION AND
ORDER DENYING PLAINTIFF'S
MOTION FOR PARTIAL
SUMMARY JUDGMENT AND
GRANTING DEFENDANTS' CROSS
MOTION FOR PARTIAL
SUMMARY JUDGMENT

Case No. 2:09-CV-136-TS

I. INTRODUCTION

This matter is before the Court on Plaintiff's Motion for Partial Summary Judgment, Cross Motion for Partial Summary Judgment by Defendants Morinda Properties Escala Lodges, LC ("Morinda"), Silverado Development, Inc., Kerry Asay, Kim Asay, John Wadsworth, and Wayne Turner ("Defendants"), and Defendants' Motions to Strike.¹

For the reasons set forth below, the Court will deny Plaintiff's Motion for Partial Summary Judgment and grant Defendants' Cross Motion for Partial Summary Judgment. Consequently, Defendants' Motions to Strike is moot.

II. BACKGROUND

Plaintiff Ken Clark brings four causes of action, two alleging breach of contract and two alleging violations of the Utah Consumer and Land Sales Practices Acts. The present Motions address only the breach of contract claims.

Both Plaintiff and Defendants move for partial summary judgment on Plaintiff's cause of action for breach of contract, while Plaintiff also moves for U.S. Bank to be required to refund Plaintiff's deposit if he prevails on the breach of contract claim. Plaintiff argues that Defendants breached the terms of the purchase contract by failing to achieve substantial completion by September 30, 2008, while Defendants counter that substantial completion was achieved on September 16, 2008.

¹Donald E. Mullen, Extreme Holding, LLC, and U.S. Bank are the other Defendants in this case. Defendant U.S. Bank has filed a separate Motion for Summary Judgment and has not joined in the Cross Motion for Partial Summary Judgment. While Plaintiff's allegations are also against Defendants Mullen and Extreme Holding L.L.C., they are represented by other counsel and did not join in the Cross Motion for Partial Summary Judgment or Motion to Strike.

The following facts are undisputed. In June 2005, Plaintiff signed a Real Estate Purchase Contract (“REPC”) for the purchase of a condominium at Escala Lodges in Park City that was to be constructed by Defendant Morinda. Plaintiff deposited \$120,300 in connection with the purchase of this unit. The REPC originally stated that the condominium would be substantially completed within twenty-six months of acceptance, which was later extended another thirteen months to September 30, 2008, by a mutually-agreed-upon addendum. The REPC defined “substantial completion” in paragraph 11, which reads: “The Condominium Unit shall be considered ‘Substantially Complete’ when a temporary or permanent certificate of occupancy for the Condominium Unit has been issued by Summit County.”²

On September 16, 2008, a Summit County Building Inspector issued a document entitled “Summit County Compliance Inspection Report” that stated “TCO (Temporary C/O) approval for:” and then listed, among other units, the unit Plaintiff had contracted to purchase.³ This document also stated that the “TCO” applied only to residential rooms, was approved for a period of ninety days, and could be “revoked by Building Official or Fire Marshal for cause.”⁴ It concluded by stating, “TCO Approved on Basis of Above Agreed Contingencies.”⁵ This document will be referred to as “the TCO.”⁶

²Docket No. 31, Ex. A ¶ 11.

³*Id.* Ex. G.

⁴*Id.*

⁵*Id.*

⁶Plaintiff and Plaintiff’s witness Mr. Sargent primarily refer to this document as a “purported TCO.”

After being issued this document, Defendant Morinda notified Plaintiff that it had received a temporary certificate of occupancy for the unit, that the unit was substantially complete, and that Plaintiff was required to close within fourteen days. On October 3, 2008, Plaintiff notified Morinda of its desire to terminate the REPC. Morinda responded on October 9, 2008, stating that the REPC remained enforceable and that Plaintiff was obligated to close. Morinda was issued a certificate of occupancy, the validity of which is not disputed, on December 16, 2008. The parties' dispute relates to whether Morinda achieved substantial completion before the September 30, 2008, deadline.

III. STANDARD OF REVIEW

Summary judgment is proper if the moving party can demonstrate that there is no genuine issue of material fact and it is entitled to judgment as a matter of law.⁷ In considering whether genuine issues of material fact exist, the Court determines whether a reasonable jury could return a verdict for the nonmoving party in the face of all the evidence presented.⁸ The Court is required to construe all facts and reasonable inferences in the light most favorable to the nonmoving party.⁹ Once a motion for summary judgment is properly made and supported, "an adverse party may not rest upon the mere allegations or denials in his pleading, but his response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there

⁷FED. R. CIV. P. 56(c).

⁸*See Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 249 (1986); *Clifton v. Craig*, 924 F.2d 182, 183 (10th Cir. 1991).

⁹*See Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 587 (1986); *Wright v. Southwestern Bell Tel. Co.*, 925 F.2d 1288, 1292 (10th Cir. 1991).

is a genuine issue for trial, if he does not so respond, summary judgment, if appropriate, shall be entered against him.”¹⁰

IV. DISCUSSION

A. Motions to Strike

Defendants’ Motions to Strike the original and supplemental Declarations of Mr. Sargent¹¹ are implicated by the Court’s ruling on the Cross Motions for Partial Summary Judgment. Defendants argue that these Declarations should be stricken because they largely consist of “unsupported and inadmissible opinion testimony”¹² and “conclusions of law.”¹³ As is discussed below, Plaintiff’s Motion for Partial Summary Judgment and Response to Defendant’s Cross Motion for Partial Summary Judgment rely heavily upon the statements made by Mr. Sargent and striking his Declarations would cripple Plaintiff’s arguments. However, even without striking the Sargent Declarations, the undisputed evidence supports Defendants’ Cross Motion for Partial Summary Judgment, making it unnecessary for the Court to rule on the Motions to Strike.

B. Cross Motions for Partial Summary Judgment

The dispute currently before the Court is over whether Defendant Morinda achieved substantial completion prior to the required deadline. Defendants argue that Defendant Morinda

¹⁰FED. R. CIV. P. 56(e)(2).

¹¹Docket No. 44; Docket No. 60.

¹²Docket No. 45, at 2.

¹³Docket No. 61, at 2; *see also id.* at 3, 4 (stating that, with regard to the Supplemental Declaration, “Sargent continues to opine on the law and draw legal conclusions”).

was issued temporary certificate of occupancy by a Summit County Building Inspector on September 16, 2008, and thereby met the requirements for substantial completion under paragraph 11 of the REPC.¹⁴ This certificate was never revoked and there is no evidence that it was issued in bad faith.

Plaintiff argues that substantial completion was not achieved because Summit County did not issue a valid certificate of occupancy prior to the completion deadline.¹⁵ Plaintiff also argues that the “purported temporary certificate of occupancy was not issued by Summit County,” “was issued improperly, was totally invalid, and did not evidence that substantial completion had been timely achieved by Morinda.”¹⁶

Plaintiff’s argument relies on the testimony of the Summit County Community Development Director, Mr. Sargent. He supervises the chief building official who employs the building inspector that issued the TCO.¹⁷ In addition to the statements discussed below, on February 2, 2009, Mr. Sargent signed a declaration opining that the TCO issued September 16, 2008, was invalid. However, as noted above, the TCO had already expired and a certificate of occupancy whose validity has not been disputed had already been issued in December 2009.

¹⁴Docket No. 31, Ex. A ¶ 11 (stating that “The Condominium Unit shall be considered ‘Substantially Complete’ when a temporary or permanent certificate of occupancy for the Condominium Unit has been issued by Summit County.”).

¹⁵*See* Docket No. 50, at 3–5.

¹⁶*Id.* at 2.

¹⁷Docket No. 53, at 1, 4.

Mr. Sargent has two declarations on file with the Court.¹⁸ Plaintiff relies on Mr. Sargent's assertions that no valid certificate of occupancy was properly issued in September 2008.¹⁹ "Rather, the TCOs issued in September were merely 'one step in the approval process for a certificate of occupancy.'"²⁰ Mr. Sargent stated that "certificates of occupancy" should not be issued under the provisions of the Snyderville Basin Development Code unless "[t]he structure has been constructed in compliance with all applicable provisions of this title and the development permit granting approval thereof, the international building code, the international fire code, and/or other applicable ordinances related to the construction and occupancy of the structure."²¹ Mr. Sargent also stated, without citing any accompanying law, that this determination "necessarily requires the approval of the Planning Department, Fire Department, and others."²² Mr. Sargent further stated that, because the TCO was not "approved by the Summit County Planning Department, Fire Department, Water Department, or Water Reclamation, [it] did not satisfy the requirement for issuance of a certificate of occupancy within The Canyons SPA."²³ Finally, Mr. Sargent stated, once again with no citation, that "it is a

¹⁸Sargent Declaration, Docket No. 31, Ex. E; Supplemental Sargent Declaration, Docket No. 53.

¹⁹Docket No. 50 (citing Supplemental Sargent Declaration, Docket No. 53 ¶¶ 19, 21, 23, 24, 25).

²⁰*Id.* (citing Supplemental Sargent Declaration, Docket No. 53 ¶ 23).

²¹Supplemental Sargent Declaration, Docket No. 53 ¶ 17 (citing Docket No. 53, Ex. J, § 10-3-20(I)).

²²*Id.*

²³*Id.* ¶ 21.

requirement of and the general practice under The Canyons SPA Development Agreement to obtain the Resort Village Management Association approval and sign off before issuance of a certificate of occupancy.”²⁴

As Defendants note, Plaintiff’s argument that the TCO is invalid because it does not meet Mr. Sargent’s requirements is deficient. Plaintiff cites Mr. Sargent’s statement that the TCO “did not satisfy the requirements for the issuance of a certificate of occupancy”²⁵ and then further states that “[n]o Certificate of Occupancy supported by all required approvals was properly issued in September 2008.”²⁶ However, these statements all relate to the requirements to obtain a certificate of occupancy, which Defendants acknowledge was not issued until December. The issue in this case is whether a *temporary* certificate of occupancy was issued prior to the deadline, as this is sufficient for substantial completion.²⁷

Plaintiff defends the Sargent Declarations by stating that certificates of occupancy have one standard, as the Snyderville Basin Development Code does not make a distinction between temporary and permanent certificates.²⁸ However, Mr. Sargent stated in his declaration that “the

²⁴*Id.* ¶ 18.

²⁵Docket No. 31 ¶ 14.

²⁶*Id.* ¶ 16.

²⁷*See also* Docket No. 40, at 18 (Defendants noting that “Sargent’s carefully worded Declaration is directed only at the rules for obtaining a ‘certificate of occupancy,’ not a TCO. Certainly in the instant case, all that is at issue is the TCO obtained on September 16, 2008, not the certificate of occupancy, which has not been challenged and was obtained on December 16, 2008. Plaintiff, however, is attempting to take the Sargent Declarations out of context and argue its applicability to the issuance of TCOs.”) (citation omitted).

²⁸Docket No. 50, at 7.

TCOs issued in September” were “one step in the required approval process for a certificate of occupancy.”²⁹ This clearly establishes that there is a distinction between temporary and permanent certificates of occupancy.

Furthermore, the International Building Code (“IBC”), which has been adopted by Summit County,³⁰ allows temporary certificates of occupancy, stating that “[t]he building official is authorized to issue a temporary certificate of occupancy before the completion of the entire work covered by the permit, provided that such portion or portions shall be occupied safely.”³¹

In addition to these weaknesses in Plaintiff’s argument, both Plaintiff and Mr. Sargent indirectly concede that a temporary certificate of occupancy for the unit was issued in September. Mr. Sargent concedes that “a ‘Temporary Certificate of Occupancy’ . . . was issued by a building inspector from the Summit County Building Department,” but qualified this fact by stating that the inspector “was unaware of the requirement of written approval by the Summit County Planning Department.”³² Plaintiff also argues that the building inspector “[did] not have the authority to issue a certificate of occupancy.”³³

However, even if this temporary certificate of occupancy was issued in error, it was issued by a building inspector who, under the IBC, “is authorized to issue a temporary certificate

²⁹Docket No. 53 ¶ 23.

³⁰Summit County Code § 9-1-1 (2008).

³¹International Building Code, Docket No. 40, Ex. 1 § 110.3.

³²Sargent Declaration, Docket No. 31, Ex. E ¶ 9.

³³Docket No. 50, at 4.

of occupancy.”³⁴ Plaintiff has not cited any local law or ordinance taking this authority away from building inspectors. Finally, this temporary certificate of occupancy was not revoked by the inspector or the County before the permanent certificate of occupancy was issued.

Mr. Sargent further acknowledged that a temporary certificate was issued when he stated that “*the TCOs issued in September* by the Summit County Building Department represented a conditional approval by only the Summit County Building Department.”³⁵ Plaintiff also cites this same language,³⁶ and has never argued that the temporary certificate was issued in bad faith. Labeling the document a “purported TCO” does not make it so.

Because a temporary certificate of occupancy was issued within the time specified in the contract and the contract expressly states that a temporary certificate of occupancy fulfills the “substantially complete” requirement, the Court finds that Defendants met their obligations and that their Motion for Partial Summary Judgment is appropriate.

V. CONCLUSION

Defendants have met their burden of showing that there are no disputed issues of material fact relating to whether substantial completion, as evidenced by the issuance of a temporary certificate of occupancy, was achieved prior to the deadline. Therefore, as a matter of law, they are entitled to partial summary judgment on the breach of contract claims.

³⁴International Building Code, Docket No. 40, Ex. 1 § 110.3.

³⁵*Id.* ¶ 11 (emphasis added); Supplemental Sargent Declaration, Docket No. 53 ¶ 17 (containing the same statement).

³⁶Docket No. 31, at 5; Docket No. 50, at 3.

It is therefore


ORDERED that Plaintiff's Motion for Partial Summary Judgment (Docket No. 30) is DENIED. It is further

ORDERED that Defendants' Cross Motion for Partial Summary Judgment (Docket No. 39) is GRANTED. It is further

ORDERED that Defendants' Motions to Strike (Docket Nos. 44 & 60) are DENIED AS MOOT.

DATED May 17, 2010.

BY THE COURT:



TED STEWART
United States District Judge

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH - CENTRAL DIVISION

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

ALLEN WOLFSON,

Plaintiff,

v.

SECURITIES AND EXCHANGE
COMMISSION and UNITED STATES OF
AMERICA,

Defendants.

MAY 17 2010

D. MARK JONES, CLERK

BY

DEPUTY CLERK

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

Case No. 2:09-CV-223

Judge Dee Benson

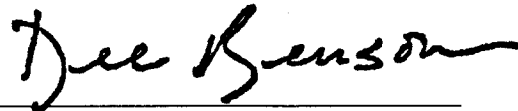
Before the Court is the Report and Recommendation issued by United States Magistrate Judge Paul Warner on April 13, 2010, recommending that Plaintiff's case be dismissed. The parties were notified of their right to file objections to the Report and Recommendation within fourteen (14) days after receiving it.¹ Neither party has filed such an objection.

Having reviewed all relevant materials, including the reasoning set forth in the Magistrate Judge's Report and Recommendation, the Court ADOPTS the Report and Recommendation and DISMISSES Plaintiff's case.

IT IS SO ORDERED.

Dated this 14th day of May, 2010.

BY THE COURT



Dee Benson, Judge
United States District Court

¹Notice of the Report and Recommendation was delivered via mail to the Plaintiff at his address of record and returned undeliverable. The court finds that service at his address of record gave the Plaintiff adequate notice. Plaintiff has not provided the court with any updated address.

FILED
U.S. DISTRICT COURT

200 MAY 17 A 10:05

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

Brian S. King, Esq.
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Salt Lake City, Utah 84111
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brian@briansking.com

Adam P. Segal, Esq.
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Las Vegas, Nevada 89106-4614
Telephone: (702) 382-2101
Facsimile: (702) 382-8135
Email: asegal@bhfs.com

Attorneys for Defendant, Trustees of the Utah Carpenters'
and Cement Masons' Pension Trust

UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

<p>FETZER'S, INC.,</p> <p style="text-align: right;">Plaintiff,</p> <p>v.</p> <p>TRUSTEES OF THE UTAH CARPENTERS' AND CEMENT MASONS' PENSION TRUST,</p> <p style="text-align: right;">Defendants.</p>	<p>CASE NO. 2:09-CV-00541-DAK</p> <p>ORDER OF EXTENSION OF TIME FOR THE PARTIES' TO FILE THEIR SUMMARY JUDGMENT OPPOSITION MEMORANDA</p>
<p>TRUSTEES OF THE UTAH CARPENTERS' AND CEMENT MASONS' PENSION TRUST,</p> <p style="text-align: right;">Counterclaim Plaintiffs,</p> <p>v.</p> <p>FETZER'S INC.,</p>	

Counterclaim Defendant.

Based on the Stipulated Motion of the parties and good cause appearing, it is hereby ORDERED that the date for submission of the parties' Opposition Memoranda in connection with their Motion(s) for Summary Judgment shall be extended from April 30, 2010 to May 28, 2010 to facilitate the parties' current settlement negotiations.

DATED this 1st day of MAY, 2010.



U.S. District Court Judge Clark Waddoups

Barry N. Johnson (Utah Bar No. 6255)
Daniel K. Brough (Utah Bar No. 10283)
BENNETT TUELLER JOHNSON & DEERE
3165 E. Millrock Drive, Suite 500
Salt Lake City, Utah 84121
Telephone: (801) 438-2000
Facsimile: (801) 438-2050
Email: bjohnson@btjd.com, dbrough@btjd.com
Attorneys for Defendants

* * * * *

Defendants.

Magistrate Judge Brooke Wells

* * * * *

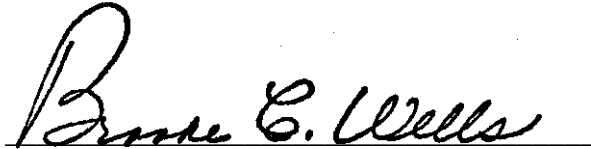
1

Construction, LLC (“WF Electric”), Larsen Electric, LLC (“Larsen Electric”), and Scott R. Larsen (“Larsen” and, with WF Electric and Larsen Electric, “Defendants”), with the stipulation of Plaintiffs Trustees of the Eighth District Electrical Pension Fund (the “Fund”) and International Brotherhood of Electrical Workers, Local 354 (“Local 354” and, with the Fund, “Plaintiffs”). The Court notes Plaintiffs’ stipulation to the relief requested in the Stipulated Motion. Good cause appearing therefrom, the Court therefore ORDERS as follows:

The Stipulated Motion is GRANTED. Defendants shall have until Wednesday, May 19, 2010, to file their memorandum in opposition to Plaintiffs’ Second Motion for Partial Summary Judgment (Doc. No. 30).

DATED this 17th day of May, 2010.

BY THE COURT:

A handwritten signature in black ink, reading "Brooke C. Wells", written over a horizontal line.

Hon. Brooke C. Wells
Magistrate Judge, United States District Court
District of Utah

**UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

LUTRON ELECTRONICS CO., INC.,

Plaintiff,

v.

CRESTRON ELECTRONICS, INC., a New
Jersey corporation; FACE GROUP, INC.,
D.B.A. LIFESTYLE ELECTRONICS, a Utah
corporation; LAVA CORP., a Utah
corporation, and AUDIOVISION SYSTEMS,
LLC, a Utah limited liability company,

Defendants.

**ORDER GRANTING JOINT AGREED
MOTION TO MODIFY SCHEDULE**

Civil No.: 2:09-cv-707

Judge Dee Benson

Magistrate Brooke C. Wells

The Court, having reviewed the parties' Joint Agreed Motion to Modify Schedule, and
having been duly advised in the premises, hereby grants the parties' motion. As such, IT IS
ORDERED THAT:

the Court's Scheduling Order dated March 1, 2010 (Dkt. 34) is modified as set forth
below:

Description	Date
Defendants' Invalidity and Non-Infringement Contentions	07/02/2010
Exchange of proposed terms for construction	7/30/2010
Exchange of preliminary claim constructions and extrinsic evidence	08/27/2010
Joint Claim Construction and Pre-Hearing Statement	09/17/2010
Close of Claim Construction Discovery	10/01/2010

Opening Claim Construction Brief	10/15/2010
Responsive Claim Construction Brief	11/12/2010
Reply Claim Construction Brief	12/03/2010
Claim Construction hearing requested as soon as possible after	12/03/2010
Rule 26(a)(2) Reports From Experts:	
Plaintiff	01/21/2011
Defendant	01/21/2011
Counter Reports	02/18/2011
Discovery to be completed by:	
Fact Discovery	02/25/2011
Expert Discovery	04/15/2011
Deadline for filing dispositive or potentially dispositive motions	04/29/2011
Rule 26(a)(3) Pretrial Disclosures	
Plaintiff	06/24/2011
Defendant	07/08/2011
Special Attorney Conference ¹ on or before	07/22/2011
Settlement Conference ² on or before	07/22/2011
Final Pretrial Conference	08/12/2011
Trial (Jury Trial, 12 days)	09/12/2011 (subject to Court's availability)

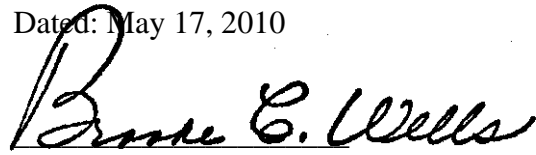
¹ The Special Attorneys Conference does not involve the Court. Counsel will agree on *voir dire* questions, jury instructions, a pre-trial order and discuss the presentation of the case. Witnesses will be scheduled to avoid gaps and disruptions. Exhibits will be marked in a way that does not result in duplication of documents. Any special equipment or courtroom requirements will be included in the pre-trial order.

² The Settlement Conference does not involve the Court unless a separate order is entered. Counsel must ensure that a person or representative with full settlement authority or otherwise authorized to make decisions regarding settlement is available in person or by telephone during the Settlement Conference.

All dates and provisions not modified herein remain in full force and effect as set forth in the Court's Scheduling Order dated March 1, 2010 (Dkt. 34); and

Defendants' Expedited Motion for Extension of Briefing Schedule (Dkt. 51) is withdrawn without prejudice.

Dated: May 17, 2010

A handwritten signature in black ink, reading "Brooke C. Wells". The signature is written in a cursive, flowing style with a large initial "B".

Brooke C. Wells
United States Magistrate Judge

U.S. DISTRICT COURT
2009 MAR 14 P 2:51
CL

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

CENTRAL DIVISION

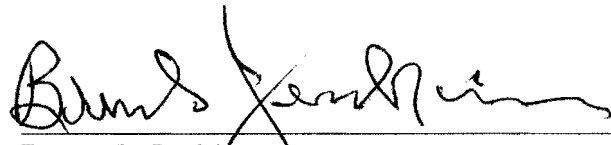
BRYANT ALLRED,	:	SCHEDULING ORDER
	:	
Plaintiff,	:	
	:	
vs.	:	
	:	
FAIRVIEW CITY, SPENCER COX,	:	
in his official and individual capacity,	:	
and JOHN DOES I-V,	:	Civil No. 2:09CV866BSJ
	:	
Defendant.	:	Honorable Bruce S. Jenkins

The above-referenced matter, having come before the Court for an initial pretrial scheduling conference, with Plaintiff being represented by David J. Holdsworth, and Defendants being represented by Meb W. Anderson, of the law firm of Blaisdell and Church, P.C., and the Court, having reviewed the Report of Attorney Planning Meeting and Proposed Scheduling Order submitted by the parties, hereby adopts the same to govern the further processing of the case, with the following revisions and additions highlighted as target dates:

- **Discovery Cutoff:** March 30, 2010
- **Submission of Final Pretrial Order:** May 18, 2011, 5:00 p.m.

— **Final Pretrial Conference:** May 20, 2011, 9:30 a.m.

DATED this 14 day of May, 2010.



Bruce S. Jenkins
U.S. Senior District Judge

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

FILED
U.S. DISTRICT COURT
2010 MAY 17 A 10:05
JUDICIAL CLERK
BY: DEPUTY CLERK

PAUL STEPHENSON,
Plaintiff,

vs.

FEDERAL BUREAU OF INVESTIGATION,
Defendant.

**ORDER ADOPTING REPORT AND
RECOMMENDATION**

Case No. 2:09-cv-0905 CW-SA


District Judge Clark Waddoups

Magistrate Judge Samuel Alba

This case was assigned to United States District Court Judge Clark Waddoups, who then referred it to United States Magistrate Samuel Alba under 28 U.S.C. § 636(b)(1)(B). On March 26, 2010, the Magistrate Judge issued a Report and Recommendation, recommending that the Federal Bureau of Investigation's (FBI) Motion to Dismiss be granted.¹ Plaintiff Paul Stephenson filed no objection to the Report and Recommendation. After having reviewed the file *de novo*, the court hereby APPROVES AND ADOPTS the Magistrate Judge's Report and Recommendation in its entirety. Accordingly, the FBI's Motion to Dismiss is GRANTED.²

SO ORDERED this 17th day of May, 2010.

BY THE COURT:


Clark Waddoups
United States District Judge

¹ Docket No. 9.

² Docket No. 5.

Philip J. Hardy (6742)
Hardy & Hardy, P.C.
1981 Murray Holladay Road, Suite 225
Salt Lake City, UT 84117
Telephone: (801) 293-3314

Attorneys for Defendants:

- Michael J. Lichtie;
- Caliber Homes, LLC

FILED
U.S. DISTRICT COURT

200 MAY 14 P 3:00

DISTRICT CLERK
CLERK

RECEIVED

MAY 14 2010

OFFICE OF U.S. DISTRICT JUDGE
BRUCE S. JENKINS

**IN THE UNITED STATES DISTRICT COURT
CENTRAL DIVISION**

STERLING SAVINGS BANK, a
Washington state chartered bank,

Plaintiff,

vs.

CENTRE SQUARE ONE, LLC, a Utah
limited liability company; MICHAEL J.
LICHTIE, an individual; DESERET SKY
DEVELOPMENT, LLC, a Utah limited
liability company; BRENT D. BUTCHER
and KRISTAL BUTCHER, husband and
wife; PERFORMANCE CONSTRUCTION
INC., a Utah corporation; CALIBER
HOMES L.L.C., a Utah limited liability
company; and CALIBER HOLDINGS
COMPANY, L.L.C., a Utah limited liability
company,

Defendants.

MICHAEL J. LICHTIE, an individual, and
CALIBER HOMES L.L.C., a Utah limited
liability company,

Counter Claimants,

vs.

STERLING SAVINGS BANK, a
Washington state chartered bank,

Counterclaim Defendant.

**ORDER GRANTING WITHDRAWAL
OF COUNSEL**

Case No. 2:09-cv-916

Judge Bruce S. Jenkins

COMES NOW the Court, which, having held a hearing regarding Defendants Lichtie and Caliber Homes, LLC's attorney's Application to Withdraw as Counsel made pursuant to DUCivR 83-1.4 ATTORNEYS - WITHDRAWAL OR REMOVAL OF ATTORNEY, which hearing was held on Wednesday, May 5, 2010 at the hour of 1:30 p.m., where both counsel for Plaintiff and counsel for Defendants Lichtie & Caliber appeared on behalf of their clients, and having also received Defendants' Consent to Withdrawal, and further, it appearing opposing counsel has consented to withdrawal of Defendants' counsel, the court, having reviewed the file and being fully apprised in the premises, the Court GRANTED attorney Philip J. Hardy's application to withdraw, subject to his preparing this new Order. Wherefore, based on the above, the Court hereby makes the following:

FINDINGS OF FACT

The Court finds that:

1. There is good cause showing for allowing Defendants' counsel to withdraw at this time in that
 - A. Defendants are incapable of adequately compensating counsel, therefore making it impossible for counsel to competently, adequately, and timely represent Defendants' interests;
 - B. Defendants' counsel is having difficulty in getting Defendants to cooperate with him in timely answering or otherwise responding to discovery and other requests of opposing counsel;
 - C. Defendants' counsel is in the process of accepting other employment, thereby requiring him to withdraw from this, and other of his presently-active cases;
 - D. Opposing counsel, Mark Williams, has given his consent to withdrawal of Defendants' counsel.
 - E. Federal law in the Utah District requires businesses to be represented by counsel, and not to appear pro se.

2. This court has authority pursuant to statute to grant the withdrawal of attorneys from cases before this court.

WHEREFORE, based on the foregoing Findings of Fact, the Court hereby makes the following:

ORDER

It is hereby ordered, adjudged, and decreed that:

1. Counsel for Defendants Lichtie and Caliber Homes, LLC, namely Philip J. Hardy, of HARDY & HARDY, P.C.'s Application to Withdraw as Counsel, is hereby GRANTED twenty days from entry of this Order.

2. Caliber Homes, LLC, is to obtain new counsel who should enter their appearance and provide an address for correspondence. *Lichtie should obtain new counsel or appear pro-se within 10 days*

3. In the meantime, correspondence for Caliber Homes, LLC, should be delivered to:

Caliber Homes, LLC c/o
Steven W. Dougherty, Registered Agent
50 West Broadway, Suite 700
Salt Lake City, Utah 84101

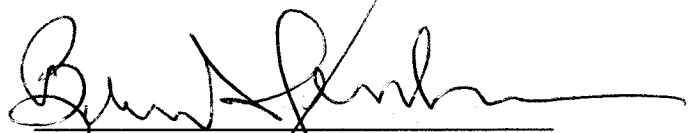
2. All further correspondence for Michael J. Lichtie should be directed to:

Michael J. Lichtie
PO Box 9313
Salt Lake City, Utah 84109
(801) 979-7507.

IT IS SO ORDERED.

DATED this 14 day of May, 2010.

BY THE COURT:


JUDGE BRUCE S. JENKINS
United States District Court Judge

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH - CENTRAL DIVISION

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

NEDRA RONEY McKELL, an individual,
and ROBERT McKELL, an individual,

Plaintiffs,

v.

GARY WHITING, an individual;
CHEYENNE MOUNTAIN
ENTERTAINMENT, a Nevada corporation;
GARVICK PROPERTIES, a Nevada Limited
Liability Company, CHEYENNE
MOUNTAIN GAMES, a Nevada
corporation; MMOGULS, a Nevada
corporation; NOW CORPORATION, a
Nevada corporation,

Defendants.

ORDER

Case No. 2:09-CV-918

Judge Dee Benson

MAY 17 2010

BY **D. MARK JONES, CLERK**
DEPUTY CLERK

This matter is before the court on plaintiffs' application for attorneys' fees. (See Dkt. No. 17.) On March 17, 2010, the court granted plaintiffs' motion to remand and awarded the plaintiffs reasonable attorneys' fees and costs incurred as a result of the defendants' removal. (See Dkt. No. 14.) On April 14, 2010, plaintiffs filed the instant application seeking \$3,300.00 in attorneys' fees. The defendants did not file an opposition.

The court has carefully considered the plaintiffs' application. The court finds that plaintiffs have provided the court with sufficient evidence to support and evaluate their claimed fees. The court also finds that the claimed fees are reasonable. Accordingly, plaintiffs are entitled to attorneys' fees in the amount of \$3,300.00.

IT IS SO ORDERED.

DATED this 17th day of May, 2010.



Dee Benson
United States District Judge

FILED
U.S. DISTRICT COURT

2010 MAY 17 P 2:38

DISTRICT OF UTAH

BY: DEPUTY CLERK

Dale J. Lambert, #1871
CHRISTENSEN & JENSEN, P.C.
15 West South Temple, Suite 800
Salt Lake City, Utah 84101
Telephone: (801) 323-5000
Dale.Lambert@chrisjen.com
Attorneys for Reed Hurst Trucking, Inc.

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

AARON OLMSTEAD,

Plaintiff,

vs.

BILL BARRETT CORPORATION; ZEIS
CONSULTING SERVICES, INC.; RUSSELL
EVANS, INDIVIDUALLY; THE BOC GROUP,
INC.; PRAXAIR, INC.; AND REED HURST
TRUCKING, INC.,

Defendants.

**ORDER OF DISMISSAL WITH
PREJUDICE**

Case No.: 2:09-cv-01044

Judge Tena Campbell
Magistrate Judge David O. Nuffer

Based on the Stipulation of Dismissal with Prejudice of the parties, and good cause appearing therefore, Plaintiff's Complaint is hereby dismissed with prejudice, each of the parties to bear their own attorney's fees and costs of court incurred herein.

DATED this 17th day of May, 2010.

BY THE COURT:

Tena Campbell

Tena Campbell
U.S. District Court Judge

FILED
U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH, CENTRAL DIVISION

MAY 14 2 3:17

CLERK

DEPUTY CLERK

UNITED STATES OF AMERICA,	:	2:10 CR 0039 CW
	:	
Plaintiff,	:	ORDER SETTING JURY TRIAL AND
	:	EXCLUDING TIME FROM SPEEDY
vs.	:	TRIAL ACT COMPUTATION
	:	
CRISTOFER SANCHEZ-VASQUEZ,	:	
	:	
Defendant.	:	Magistrate Judge Samuel Alba

This matter came before the Court on May 13, 2010 for a status conference. Counsel, Richard Mauro, appeared for the defendant. Assistant United States Attorney Robert A. Lund appeared for the United States.

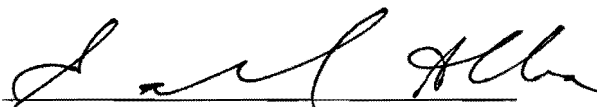
The Court heard discussion regarding the status of the case, and being now fully advised, the Court hereby enters the following ORDER:

The Court will convene a jury trial in the matter to commence on July 26, 2010. It is further ORDERED pursuant to 18 U.S.C. § 3161(h)(1)(D) and (7)(A) and (B)(ii) that all time between May 13, 2010 and July 26, 2010, shall be excluded from computation of time under the Speedy Trial Act.

The Court finds that such time is excluded from computation under the terms of the Speedy Trial Act, and finds further that the ends of justice served by the date of this trial setting outweigh the best interests of the public and the defendants in a speedy trial. Additionally, the

court finds that the nature of the prosecution is unusual and complex to a degree that it would be unreasonable to expect adequate trial preparation within the time limits established by the Speedy Trial Act. The court makes these findings based on the fact that the case against the defendant relates to multiple long-term wiretap investigations which involve extremely voluminous discovery, and counsel requires additional time to finish his review of the materials. Counsel further requires additional time to have materials translated from Spanish to English, including statements made by the defendant, and then to review those materials with the defendant.

DATED this 13th day of May, 2010.

A handwritten signature in black ink, appearing to read 'Samuel Alba', written over a horizontal line.

SAMUEL ALBA
United States Magistrate Judge

CARLIE CHRISTENSEN, Acting United States Attorney (No. 633)
MATTHEW L. BELL, Assistant United States Attorney (No. 9840)
Attorneys for the United States of America
20 North Main Street, Suite 208
St. George, Utah 84770
Telephone: (435) 673-0712

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

MAY 17 2010

BY D. MARK JONES, CLERK
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,	:	ORDER TOLLING TIME UNDER
	:	SPEEDY TRIAL ACT
Plaintiff,	:	
	:	CASE NUMBER: 2:10-CR-00101-TS
vs.	:	
	:	
TIMOTHY JOSEPH ADKINS,	:	Magistrate Judge Robert T. Braithwaite
	:	
Defendant.	:	

Based upon the Government's Stipulated Motion to Toll Time Under Speedy Trial Act and the facts set forth therein, this Court finds good cause for tolling of time under 18 U.S.C. § 3161(h)(1)(G). The Court has received a copy of a Statement in Advance of Plea of guilty, and defendant's Change-of-Plea hearing has been set, at defendant's request, for June 28, 2010.

THEREFORE, IT IS HEREBY ORDERED that the time between defendant's May 14, 2010, request to enter into a plea agreement and the change-of-plea hearing now set for June 28, 2010, is hereby tolled for purposes of the Speedy Trial Act pursuant to 18 U.S.C. § 3161(h)(1)(G).

Dated this 17 day of May 2010.

BY THE COURT:

A handwritten signature in black ink, appearing to read "RT Braithwaite", written over a horizontal line.

ROBERT T. BRAITHWAITE
United States Magistrate Judge

UNITED STATES DISTRICT COURT

Central Division

District of

Utah

UNITED STATES OF AMERICA

V.

Franklin Velasquez-Paredes

JUDGMENT IN A CRIMINAL CASE

Case Number: DUTX2:10CR000164-001

USM Number: 16861-081

Carlos Garcia, FPD

Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to count(s) 1 of indictment

☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.

☐ was found guilty on count(s) _____
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
8 USC Sec. 1326	Reentry of a Previously Removed Alien		1

The defendant is sentenced as provided in pages 2 through 10 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) _____

☐ Count(s) _____ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

5/12/2010

Date of Imposition of Judgment

Tena Campbell

Signature of Judge

Tena Campbell

Name of Judge

U.S. District Judge

Title of Judge

5-14-2010

Date

DEFENDANT: Franklin Velasquez-Paredes
CASE NUMBER: DUTX2:10CR000164-001

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

24 months.

☒ The court makes the following recommendations to the Bureau of Prisons:

The court recommends defendant be placed in a facility in Phoenix, Arizona.

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at _____ ☐ a.m. ☐ p.m. on _____.

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on _____.

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Franklin Velasquez-Paredez
CASE NUMBER: DUTX2:10CR000164-001

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

36 months.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☒ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: Franklin Velasquez-Paredes
CASE NUMBER: DUTX2:10CR000164-001

SPECIAL CONDITIONS OF SUPERVISION

1. The defendant shall not illegally reenter the United States.

DEFENDANT: Franklin Velasquez-Paredes
 CASE NUMBER: DUTX2:10CR000164-001

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 100.00	\$ 0.00	\$ 0.00

☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
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--	--	--	--

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--	--	--	--

TOTALS	\$ _____ 0.00	\$ _____ 0.00	
---------------	---------------	---------------	--

☐ Restitution amount ordered pursuant to plea agreement \$ _____

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: Franklin Velasquez-Paredes
CASE NUMBER: DUTX2:10CR000164-001

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☒ Lump sum payment of \$ 100.00 due immediately, balance due
- ☐ not later than _____, or
☒ in accordance ☐ C, ☐ D, ☐ E, or ☒ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties:
Special Assessment Fee of \$100 is due immediately.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

Pages 7 - 10

are the

Statement of Reasons,
which will be docketed
separately as a sealed
document

United States District Court
District of Utah

FILED
DISTRICT COURT
2010 MAY 14 P 4:30
BY: DEPUTY CLERK

UNITED STATES OF AMERICA

vs.

Steven O. Straw

JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed On or After November 1, 1987)

Case Number: DUTX 210CR000171-001

Plaintiff Attorney: Stanley H. Olsen

Defendant Attorney: Pro Se

Atty: CJA ___ Ret ___ FPD ___

Last 4 - Dft's Soc. Sec. No: 3937

Defendant's Year of Birth: 1980

Defendant's USM No.: N/A

Defendant's Residence Address:

Comet Cir

Salt Lake City, UT 84124

Country USA

5/6/2010

Date of Imposition of Sentence

Defendant's Mailing Address:

Comet Cir

Salt Lake City, UT 84124

Country USA

THE DEFENDANT:

☐ pleaded guilty to count(s)

☐ pleaded nolo contendere to count(s)
which was accepted by the court.

☒ was found guilty on count(s)

COP _____ Verdict 5/6/2010

1 of the Misdemeanor Information

Title & Section

43 U.S.C. §1701

Nature of Offense

FEDERAL LAND POLICY AND MANAGEMENT/
Creating a Hazard and a Nuisance
(43 C.F.R. 8365.1-4(1)(2))

Count

Number(s)

1

☐ The defendant has been found not guilty on count(s) _____

☐ Count(s) _____ (is)(are) dismissed on the motion of the United States.

SENTENCE

Pursuant to the Sentencing Reform Act of 1984, it is the judgment and order of the Court that the defendant be committed to the custody of the United States Bureau of Prisons for a term of _____

Upon release from confinement, the defendant shall be placed on supervised release for a term of _____

☐ The defendant is placed on Probation for a period of _____
The defendant shall not illegally possess a controlled substance.

For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter, as directed by the probation officer.

- ☐ The above drug testing condition is suspended based on the court's determination that the defendant possesses a low risk of future substance abuse. (Check if applicable.)

SPECIAL CONDITIONS OF SUPERVISED RELEASE/PROBATION

In addition to all Standard Conditions of (Supervised Release or Probation) set forth in PROBATION FORM 7A, the following Special Conditions are imposed: (see attachment if necessary)

1.

CRIMINAL MONETARY PENALTIES

FINE

The defendant shall pay a fine in the amount of \$ 75.00, payable as follows:

☒ forthwith.

☐ in accordance with the Bureau of Prison's Financial Responsibility Program while incarcerated and thereafter pursuant to a schedule established by the U.S. Probation office, based upon the defendant's ability to pay and with the approval of the court.

☐ in accordance with a schedule established by the U.S. Probation office, based upon the defendant's ability to pay and with the approval of the court.

☐ other:

☐ The defendant shall pay interest on any fine more than \$2,500, unless the fine is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f).

☐ The court determines that the defendant does not have the ability to pay interest and pursuant to 18 U.S.C. § 3612(f)(3), **it is ordered that:**

☐ The interest requirement is waived.

☐ The interest requirement is modified as follows:

RESTITUTION

The defendant shall make restitution to the following payees in the amounts listed below:

<u>Name and Address of Payee</u>	<u>Amount of Loss</u>	<u>Amount of Restitution Ordered</u>
----------------------------------	-----------------------	--

<u>Name and Address of Payee</u>	<u>Amount of Loss</u>	<u>Amount of Restitution Ordered</u>
----------------------------------	-----------------------	--

Totals: \$ _____ \$ _____

(See attachment if necessary.) All restitution payments must be made through the Clerk of Court, unless directed otherwise. If the defendant makes a partial payment, each payee shall receive an approximately proportional payment unless otherwise specified.

☐ Restitution is payable as follows:

☐ in accordance with a schedule established by the U.S. Probation Office, based upon the defendant's ability to pay and with the approval of the court.

☐ other:

☐ The defendant having been convicted of an offense described in 18 U.S.C. § 3663A(c) and committed on or after 04/25/1996, determination of mandatory restitution is continued until _____ pursuant to 18 U.S.C. § 3664(d)(5)(not to exceed 90 days after sentencing).

☐ An Amended Judgment in a Criminal Case will be entered after such determination

SPECIAL ASSESSMENT

The defendant shall pay a special assessment in the amount of \$ 25.00 , payable as follows:

☒ forthwith.

☐ _____

IT IS ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid

PRESENTENCE REPORT/OBJECTIONS

The court adopts the factual findings and guidelines application recommended in the presentence report except as otherwise stated in open court.

DEPARTURE

The Court grant the Motion for Departure pursuant to 18 U.S.C. 3553(c)(2), the Court enters its reasons for departure:

RECOMMENDATION

☐ Pursuant to 18 U.S.C. § 3621(b)(4), the Court makes the following recommendations to the Bureau of Prisons:

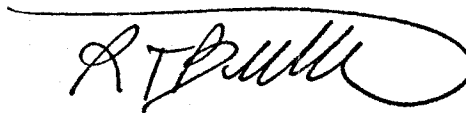
Defendant: Steven O. Straw
Case Number: 210CR000171-001

Page 4 of 5

CUSTODY/SURRENDER

- ☐ The defendant is remanded to the custody of the United States Marshal.
- ☐ The defendant shall surrender to the United States Marshal for this district at _____ on _____.
- ☐ The defendant shall report to the institution designated by the Bureau of Prisons by _____ Institution's local time, on _____.

DATE: 5/14/2010



Robert T. Braithwaite
United States Magistrate Judge

Defendant: Steven O. Straw
Case Number: 210CR000171-001

Page 5 of 5

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
Deputy U.S. Marshal

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

FILED
U.S. DISTRICT COURT
RECEIVED CLERK
2010 MAY 17 P 2:29
MAY 14 2010
U.S. DISTRICT COURT


UNITED STATES OF AMERICA,
Plaintiff,
v.
TYLER C. PERRY,
Defendant.

ORDER GRANTING LEAVE TO DISMISS
MISDEMEANOR INFORMATION
Case No. 2:10-CR-175
Creating a Hazard and a
Nuisance (43 U.S.C. § 1701 and
43 C.F.R. 8365.1-4(a)(2))
Magistrate Judge Robert T.
Braithwaite

Based upon the Motion of the United States of America, and for good cause appearing, the Court hereby grants the Government leave to dismiss the above-captioned Misdemeanor Information, without prejudice, under Rule 48(a) of the Federal Rules of Criminal Procedure.

DATED this 17th day of May, 2010.

BY THE COURT:


United States Magistrate Judge

FILED
U.S. DISTRICT COURT
2010 MAY 17 A 7:11
CLERK'S OFFICE
FBI
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

-VS-

UBERTO LAZALDE ZUNIGA,

Defendant.

**ORDER CONTINUING CHANGE OF
PLEA HEARING**

Case No. 2:10-CR-178 TS

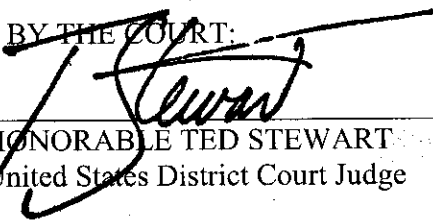
Based on the motion filed by the defendant and good cause appearing,

IT IS HEREBY ORDERED:

1. The CHANGE OF PLEA HEARING set for Tuesday, May 18, 2010, at 2:00 p.m. is
continued until 5/21/10 @ 2:30 p.m.

DATED this 14th day of May, 2010.

BY THE COURT:


HONORABLE TED STEWART
United States District Court Judge

UNITED STATES DISTRICT COURT

District of Utah

UNITED STATES OF AMERICA

v.

JULIO CESAR ARELLANES-HERNANDEZ

JUDGMENT IN A CRIMINAL CASE

Case Number: DUTX210CR000186-001K

USM Number: 34408-208

Natalie Benson

Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to count(s) 1 of the Indictment

☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.

☐ was found guilty on count(s) _____
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
8 U.S.C. § 1326	Reentry of a Previously Removed Alien		1

The defendant is sentenced as provided in pages 2 through 5 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) _____

☐ Count(s) _____ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

5/13/2010

Date of Imposition of Judgment

David Sam

Signature of Judge

The Honorable David Sam

Name of Judge

U. S. District Judge

Title of Judge

5/14/2010

Date

DEFENDANT: JULIO CESAR ARELLANES-HERNANDEZ
CASE NUMBER: DUTX210CR000186-001DS

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

60 days with credit for time-served.

☐ The court makes the following recommendations to the Bureau of Prisons:

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at _____ ☐ a.m. ☐ p.m. on _____.

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on _____.

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

a _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: JULIO CESAR ARELLANES-HERNANDEZ
CASE NUMBER: DUTX210CR000186-001DS

Judgment—Page 3 of 5

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

12 Months

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. *(Check, if applicable.)*
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. *(Check, if applicable.)*
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. *(Check, if applicable.)*
- ☐ The defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which he or she resides, works, is a student, or was convicted of a qualifying offense. *(Check, if applicable.)*
- ☐ The defendant shall participate in an approved program for domestic violence. *(Check, if applicable.)*

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: JULIO CESAR ARELLANES-HERNANDEZ
CASE NUMBER: DUTX210CR000186-001DS

ADDITIONAL SUPERVISED RELEASE TERMS

The defendant shall not re-enter the United States illegally. In the event that the defendant should be released from confinement without being deported, he shall contact the United States Probation Office in the district of release within 72 hours of release. If the defendant returns to the United States during the period of supervision after being deported, he is instructed to contact the United States Probation Office in the District of Utah within 72 hours of arrival in the United States.

DEFENDANT: JULIO CESAR ARELLANES-HERNANDEZ
CASE NUMBER: DUTX210CR000186-001DS

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

- A ☐ Lump sum payment of \$ _____ due immediately, balance due
- ☐ not later than _____, or
☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties:
The Court waives the Special Assessment, and the Fine.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

PS 42

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

UNITED STATES OF AMERICA

Plaintiff,

Jesus Aguilar, Jr.

Defendant

Docket No.: 2:10-CR-00192-001-TC

DEPUTY CLERK

CONSENT TO MODIFY CONDITIONS OF RELEASE

I, Jesus Aguilar, Jr., have discussed with Pretrial Services Officer Hugo de Leon, modification of my release conditions as follows:

The defendant shall be released into the third party custody of Oswaldo Orozco, who agrees (a) to supervise the defendant in accordance with all the conditions of release, (b) to use every effort to assure the appearance of the defendant at all scheduled court proceedings, and (c) to notify the court immediately in the event the defendant violates any conditions of release or disappears

I consent to this modification of my release conditions and agree to abide by this modification.

Jesus Aguilar
Defendant

05/07/10
Date

Hugo de Leon
Pretrial Services Officer

5/7/10
Date

I have reviewed the conditions with my client and concur that this modification is appropriate.

W. M. Warner
Defense Counsel

5/12/2010
Date

ORDER OF THE COURT

☒ The above modification of conditions of release is ordered, to be effective on MAY 14, 2010.

☐ The above modification of conditions of release is not ordered.

Paul M. Warner
Honorable Paul M. Warner
United States Magistrate Judge

MAY 14, 2010
Date

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

UNITED STATES OF AMERICA

Plaintiff,

Brittany Leigh Anderer

Defendant

Docket No.: 2:10-CR-00215-001-RTB

CONSENT TO MODIFY CONDITIONS OF RELEASE

I, Brittany Leigh Anderer, have discussed with Pretrial Services Officer Blanca Tillman, modification of my release conditions as follows:

- The defendant to submit to a mental health evaluation/assessment and complete any treatment as deemed advisable by examiner and/or Pretrial Services Supervising Officer
- The defendant to submit to a substance abuse evaluation and participate in an inpatient/outpatient substance abuse treatment program and/or any counseling if deemed advisable by the Pretrial Services Supervising Officer

I consent to this modification of my release conditions and agree to abide by this modification.

Brittany Anderer
Defendant

5/3/10
Date

[Signature]
Pretrial Services Officer

5.3.10.
Date

I have reviewed the conditions with my client and concur that this modification is appropriate.

[Signature]
Defense Counsel

5/6/10
Date

ORDER OF THE COURT

☒ The above modification of conditions of release is ordered, to be effective on 5/17/2010, 2010.

☐ The above modification of conditions of release is **not** ordered.

[Signature]
Honorable Paul M. Warner
United States Magistrate Judge

5/17/2010
Date

FILED
U.S. DISTRICT COURT

2010 MAY 17 A 10:00

DISTRICT OF UTAH

BY: DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

DANIEL SMITH,

Plaintiff,

v.

ENCORE CREDIT CORPORATION et al.,

Defendants.

ORDER

Case No. 2:10-cv-43 CW

Judge Clark Waddoups

This matter is before the court on Plaintiff's Motion to Amend Complaint. No party has opposed the motion. For good cause appearing, the court HEREBY GRANTS the Motion to Amend Complaint.

SO ORDERED this 14th day of May, 2010.

BY THE COURT:



Clark Waddoups
United States District Judge

ANDERSON & KARRENERG

Thomas R. Karrenberg (#3726)
Samantha J. Slark (#10774)
50 West Broadway, Suite 700
Salt Lake City, Utah 84101-2035
Telephone: (801) 534-1700
Facsimile: (801) 364-7697

FILED
DISTRICT COURT
2010 MAY 14 12:30:00
CLERK
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Attorneys for Beacon Tower Development, LLC

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

<p>BEACON TOWER DEVELOPMENT, LLC, a Utah limited liability company,</p> <p>Plaintiff,</p> <p>vs.</p> <p>GREAT BASIN TECHNOLOGIES, LLC., a Utah limited liability company, RICHARD R. MACKERELL, an individual, GARY M. RENLUND, an individual, TRIOX TECHNOLOGIES, INC., a Utah Corporation,</p> <p>Defendants.</p>	<p>SCHEDULING ORDER</p> <p>Case No. 2:10cv00099 Judge Bruce S. Jenkins</p>
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A scheduling conference was held before the above-entitled Court on May 3, 2010. Plaintiff was represented by Thomas R. Karrenberg. The Defendants were represented by Robert Clark.

The Court hereby enters the following scheduling order:

1. The parties will exchange on or before May 28, 2010 the Initial Disclosures required by Rule 26(a)(1).

2. All amendments to pleadings shall be made on or before August 1, 2010, including any motions to join additional parties.

3. Fact discovery, except for experts, shall be completed by January 31, 2011.

4. Expert reports pursuant to Federal Rule of Civil Procedure 26(b)(2) shall be submitted by Plaintiff on or before February 28, 2011, by Defendant on or before March 31, 2011, and any expert rebuttal reports on or before April 30, 2011.

5. All discovery, including expert discovery, shall be completed on or before May 31, 2011.

6. All dispositive or potentially dispositive motions and Daubert motions are to be filed with the court on or before May 1, 2011.

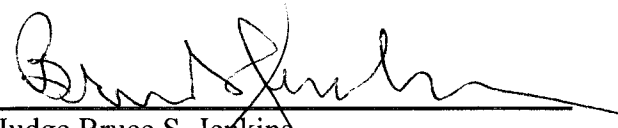
7. A pretrial conference shall be held before the above-entitled Court on June 24, 2011 at 9:30 a.m.

8. The parties shall submit an agreed upon form of pretrial order to the Court on or before June 22, 2011 including final witness lists and exhibits.

9. All depositions and written discovery shall be conducted in accordance with the Federal Rules of Civil Procedure.

DATED: May 14, 2010.

BY THE COURT



Judge Bruce S. Jenkins
U.S. District Court Judge

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

MAY 17 2010

D. MARK JONES, CLERK
BY _____
DEPUTY CLERK

RICHARD L. PETERSEN (9494), for:
HOWARD, LEWIS & PETERSEN, P.C.
ATTORNEYS AND COUNSELORS AT LAW
120 East 300 North Street
P.O. Box 1248
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petersenr@provolawyers.com

Our File No. 30126

Attorneys for Darlene Pierce

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

HARTFORD LIFE AND ACCIDENT
INSURANCE COMPANY,

Plaintiff,

vs.

DARLENE PIERCE and CARON McEWAN,

Defendants.

**ORDER GRANTING SUMMARY
JUDGMENT**

Case No. 2:10-cv-00171- DB

Defendant Darlene Pierce's Motion for Summary Judgment came regularly before this Court.

The Court having reviewed said motion and finding good cause, enters the following order:

IT IS HEREBY ORDERED:

1. That defendant Darlene Pierce's Motion for Summary Judgment is hereby granted.
2. That counsel for Darlene Pierce be remitted the proceeds of the term life insurance policy previously deposited with this Court by Hartford Life & Accident Insurance Company, plus

interest, less reasonable attorney fees and costs incurred by Hartford, (attorney for Hartford to submit affidavit with fees and costs agreed to by Defendant Pierce).

DATED this 14th day of May, 2010.

BY THE COURT:

A handwritten signature in cursive script, reading "Dee Benson", written in black ink.

U.S. DISTRICT COURT JUDGE

I:\Pierce Darlene\order granting SJ 20100426.wpd

Sally B. McMinimee (5316) sbm@princeyeates.com
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Jared N. Parrish (11743) jnp@princeyeates.com
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FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

MAY 17 2010
BY **D. MARK JONES, CLERK**
DEPUTY CLERK

Attorneys for Receiver Robert G. Wing

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

ROBERT G. WING, as Receiver for
VESCOR CAPITAL CORP., a Nevada
corporation, et al,

Plaintiff,

vs.

NANCY A. BARNES, an individual,

Defendants.

**ORDER ALLOWING SERVICE
OF PROCESS ON
NANCY A. BARNES
BY EMAIL**

Civil No. 2:10-cv-189

Judge Dee Benson

This Court, having reviewed the Receiver's Motion for Order Allowing Service by Email, or Alternatively, by Publication, and the Memorandum in support thereof, and based thereon and good cause otherwise appearing it is, hereby,

ORDERED as follows:

1. The Receiver's Motion for Order Allowing Service by Email is
GRANTED.
2. Upon delivery of the summons and the complaint to Defendant

Nancy A. Barnes by email at nab929@live.com, service of process on
Defendant Barnes shall be deemed complete.

DATED this 17th day of May, 2010.

A handwritten signature in black ink that reads "Dee Benson". The signature is written in a cursive style with a horizontal line underneath it.

HONORABLE DEE BENSON
DISTRICT COURT JUDGE

WILLARD K. TOM
General Counsel
CHRISTOPHER KOEGEL
GREGORY A. ASHE
FEDERAL TRADE COMMISSION
600 Pennsylvania Avenue, N.W., NJ-3158
Washington, DC 20580
(202) 326-2761 (Koegel)
(202) 326-3719 (Ashe)
(202) 326-3768 (facsimile)
Email: ckoegel@ftc.gov , gashe@ftc.gov

Attorneys for Plaintiff Federal Trade Commission

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

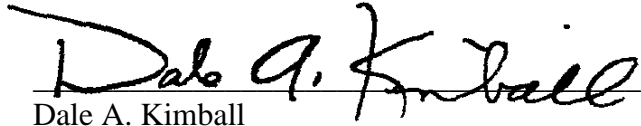
FEDERAL TRADE COMMISSION, Plaintiff, v. MARK LOFGREN, Defendant.	ORDER GRANTING STIPULATED MOTION FOR EXTENSION OF TIME FOR DEFENDANT MARK LOFGREN TO ANSWER, MOVE, OR OTHERWISE RESPOND TO PLAINTIFFS' COMPLAINT Case No.: 2:10 CV 00225 DAK Judge Dale A. Kimball
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Based upon Plaintiff Federal Trade Commission's Stipulated Motion for Extension of Time for Defendant Mark Lofgren to Answer, Move, or Otherwise Respond to Plaintiff's Complaint and good cause appearing,

IT IS HEREBY ORDERED, that Defendant Mark Lofgren shall have an additional 30 days to answer, move, or otherwise respond to Plaintiffs' Complaint in the above matter.

DATED this 17th day of May, 2010.

BY THE COURT:

A handwritten signature in black ink, reading "Dale A. Kimball". The signature is written in a cursive style with a horizontal line underneath the name.

Dale A. Kimball
United States District Judge

Kim R. Wilson (3512)
P. Matthew Cox (9879)
SNOW, CHRISTENSEN & MARTINEAU
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Post Office Box 45000
Salt Lake City, Utah 84145-5000
Telephone: (801) 521-9000
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Email: pmc@scmlaw.com

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U.S. DISTRICT COURT

2009 MAY 17 A 11:55

DISTRICT OF UTAH
BY: DEPUTY CLERK

Attorneys for Standard Industries, Inc., and C.O.P. Coal Development Company

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

CENTRAL DIVISION

In re:	District Court No. 2:10-cv-00269-TS District Court No. 2:10-cv-00288-TS
C. W. MINING COMPANY	
Debtor .	Bankruptcy Case No. 08B-20105
KENNETH A. RUSHTON, Trustee,	Adversary Proceeding No. 09-02248
Plaintiff,	ORDER FOR CONTINUANCE OF BRIEF DEADLINE
v.	[Filed Electronically]
C.O.P. COAL DEVELOPMENT COMPANY, ET AL.	

The parties' Stipulation for Continuance of Brief Deadline having been filed herein, and
the Court being fully advised in the premises and good cause appearing therefore, it is hereby:

ORDERED that the deadline for filing Appellant's opening brief in the above-captioned bankruptcy appeal is continued until June 17, 2010.

DATED this 17th day of May, 2010.

BY THE COURT:

A handwritten signature in black ink, appearing to read "J. Stewart", is written over a horizontal line. The signature is stylized with a large initial "J" and a long horizontal stroke extending to the right.

JUDGE TED STEWART
District Court Judge

Kim R. Wilson (3512)
P. Matthew Cox (9879)
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FILED
U.S. DISTRICT COURT

2009 MAY 17 A 11:55

DISTRICT OF UTAH
BY: DEPUTY CLERK

Attorneys for Standard Industries, Inc., and C.O.P. Coal Development Company

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

CENTRAL DIVISION

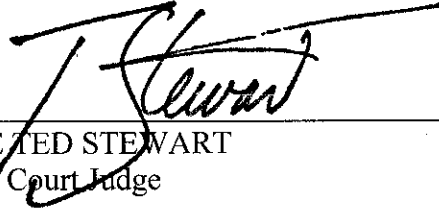
In re:	District Court No. 2:10-cv-00269-TS District Court No. 2:10-cv-00288-TS
C. W. MINING COMPANY	
Debtor .	Bankruptcy Case No. 08B-20105
KENNETH A. RUSHTON, Trustee,	Adversary Proceeding No. 09-02248
Plaintiff,	ORDER FOR CONTINUANCE OF BRIEF DEADLINE
v.	[Filed Electronically]
C.O.P. COAL DEVELOPMENT COMPANY, ET AL.	

The parties' Stipulation for Continuance of Brief Deadline having been filed herein, and
the Court being fully advised in the premises and good cause appearing therefore, it is hereby:

ORDERED that the deadline for filing Appellant's opening brief in the above-captioned bankruptcy appeal is continued until June 17, 2010.

DATED this 17th day of May, 2010.

BY THE COURT:

A handwritten signature in black ink, appearing to read "J. Stewart", is written over a horizontal line. The signature is stylized with a large initial "J" and a long horizontal stroke extending to the right.

JUDGE TED STEWART
District Court Judge

MAY 17 2010

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

Judge Campbell